Y4.EN2/3:99-73

SPILL AT THE BUTLER TUNNEL IN PITTSTON, PA

MF 172 COMPLETED
100.

HEARING

BEFORE THE

SUBCOMMITTEE ON
COMMERCE, TRANSPORTATION, AND
TOURISM

OF THE

COMMITTEE ON ENERGY AND COMMERCE
HOUSE OF REPRESENTATIVES

NINETY-NINTH CONGRESS

FIRST SESSION

OCTOBER 23, 1985

Serial No. 99-73

Printed for the use of the Committee on Energy and Commerce

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1986

60-286 O

For sale by the Superintendent of Documents, Congressional Sales Office
U.S. Government Printing Office, Washington, DC 20402

ORIGIN

BEST COPY AVAILABLE

60-286 O - 86 - 1

COMMITTEE ON ENERGY AND COMMERCE

JOHN D. DINGELL, Michigan, *Chairman*

JAMES H. SCHEUER, New York
HENRY A. WAXMAN, California
TIMOTHY E. WIRTH, Colorado
PHILIP R. SHARP, Indiana
JAMES J. FLORIO, New Jersey
EDWARD J. MARKEY, Massachusetts
THOMAS A. LUKEN, Ohio
DOUG WALGREN, Pennsylvania
BARBARA A. MIKULSKI, Maryland
AL SWIFT, Washington
MICKEY LELAND, Texas
RICHARD C. SHELBY, Alabama
CARDISS COLLINS, Illinois
MIKE SYNAR, Oklahoma
W.J. "BILLY" TAUZIN, Louisiana
RON WYDEN, Oregon
RALPH M. HALL, Texas
DENNIS E. ECKART, Ohio
WAYNE DOWDY, Mississippi
BILL RICHARDSON, New Mexico
JIM SLATTERY, Kansas
GERRY SIKORSKI, Minnesota
JOHN BRYANT, Texas
JIM BATES, California

JAMES T. BROYHILL, North Carolina
NORMAN F. LENT, New York
EDWARD R. MADIGAN, Illinois
CARLOS J. MOORHEAD, California
MATTHEW J. RINALDO, New Jersey
WILLIAM E. DANNEMEYER, California
BOB WHITTAKER, Kansas
THOMAS J. TAUKE, Iowa
DON RITTER, Pennsylvania
DAN COATS, Indiana
THOMAS J. BLILEY, JR., Virginia
JACK FIELDS, Texas
MICHAEL G. OXLEY, Ohio
HOWARD C. NIELSON, Utah
MICHAEL BILIRAKIS, Florida
DAN SCHAEFER, Colorado
FRED J. ECKERT, New York

WM. MICHAEL KITZMILLER, *Staff Director*
SHARON E. DAVIS, *Chief Clerk/Administrative Assistant*
DONALD A. WATT, *Printing Editor*
ARNOLD I. HAVENS, *Minority Counsel*

SUBCOMMITTEE ON COMMERCE, TRANSPORTATION, AND TOURISM

JAMES J. FLORIO, New Jersey, *Chairman*

BARBARA A. MIKULSKI, Maryland
DENNIS E. ECKART, Ohio
BILL RICHARDSON, New Mexico
RALPH M. HALL, Texas
PHILIP R. SHARP, Indiana
W.J. "BILLY" TAUZIN, Louisiana
WAYNE DOWDY, Mississippi
JIM SLATTERY, Kansas
GERRY SIKORSKI, Minnesota
JOHN D. DINGELL, Michigan
(Ex Officio)

NORMAN F. LENT, New York
THOMAS J. TAUKE, Iowa
DON RITTER, Pennsylvania
DAN COATS, Indiana
JACK FIELDS, Texas
DAN SCHAEFER, Colorado
JAMES T. BROYHILL, North Carolina
(Ex Officio)

GREGORY E. LAWLER, *Staff Director*
WILLIAM J. ROBERTS, *Counsel*
TERESA A. GORMAN, *Associate Minority Counsel*

BEST COPY AVAILABLE

CONTENTS

	Page
Testimony of:	
Bittle, R. Harry, Deputy Secretary for Environmental Protection, Pennsylvania Department of Environmental Resources	60
Cole, Henry, national representative, National Campaign Against Toxic Hazards	14
Cosgrove, Joseph, Pittston, PA	28
Edgar, Hon. Bob, a Representative in Congress from the State of Pennsylvania	5
Graham, Tom, supervisor, Danville Water Authority	27
Hedeman, William N., Jr., Deputy Assistant Administrator for Water, Environmental Protection Administration	70
Kanjorski, Hon. Paul, a Representative in Congress from the State of Pennsylvania	7
Lafornara, Joe, Environmental Response Team, Environmental Protection Agency	70
Massey, Thomas I., Section Chief, Emergency Response Section, Region III, Environmental Protection Administration	70
White, Dixie, northeast Pennsylvania representative, National Campaign Against Toxic Hazards	14
Material submitted for the record by:	
Commerce, Transportation, and Tourism Subcommittee:	
Letter, dated February 8, 1982, from Michael Steiner to Walter Lee re Administrative Package—Butler Tunnel (PA-202)	40
Management of Uncontrolled Hazardous Waste Sites, the Pittston Story	54

BEST COPY AVAILABLE

SPILL AT THE BUTLER TUNNEL IN PITTSTON, PA

WEDNESDAY, OCTOBER 23, 1985

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
SUBCOMMITTEE ON COMMERCE, TRANSPORTATION, AND TOURISM,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:50 a.m., in room 2123, Rayburn House Office Building, Hon. James J. Florio (chairman) presiding.

Mr. FLORIO. The subcommittee will come to order.

I would like to welcome all in attendance to this very important committee hearing.

Mr. Lent is on his way, the minority members are on their way. They have asked that we go forward in order not to hold up our witnesses, our two very important first witnesses, and the other witnesses, as well.

I would like to welcome all to this extremely important hearing that will address the very fundamental question in the whole area of debate involving Superfund, that question being: How clean is clean? When is a Superfund site sufficiently cleaned up so as to be removed from the Superfund list, presumably because it is no longer an imminent and substantial hazard to people's health and to the environment?

Three weeks ago, following the rainfall caused by Hurricane Gloria, over 100,000 gallons of extremely toxic waste spilled into the Susquehanna River near Pittston, PA. What makes this disaster particularly incredible is that that spill came from a Superfund site, the Butler Tunnel, which is one of only six sites in the country that EPA claims to have cleaned up.

It is obviously clear from the recent spill that the site was never cleaned up. Millions of gallons of toxic chemicals remain in the ground, and the potential for another disaster remains right to this day.

The Butler Tunnel contains over 2 million gallons of toxic wastes which, if discharged, could flow directly into the Susquehanna River, the drinking water source for tens of thousands of people. The town of Danville, PA, is only 60 miles downriver and nearly had its entire drinking water system contaminated by the latest spill.

In 1982, EPA's own hazardous ranking system gave the Butler Tunnel a ranking well above the threshold for retaining the Butler Tunnel on the Superfund national priorities list, a ranking that apparently EPA rejected.

In December 1982 when EPA proposed its national priorities list, the Federal Register notice stated simply that "all appropriate Fund-financed cleanup has been completed" at the Butler Tunnel. This is notwithstanding the fact that no Superfund money has ever

BEST COPY AVAILABLE

been provided to this site and no Superfund remedial work at all has ever been done at this site.

EPA provided no further explanation for the determination that the site was cleaned up.

I would like to insert in the record at this point a part of an EPA document called the "1984 National Priorities List," which on page 27 lists six sites under the heading "Sites Cleaned Up To Date." The Butler Tunnel appears on this list.

Two weeks before this latest incident, an environmental group publicly warned EPA that the site was not clean and that a major discharge was possible. This tragic prediction came true as 25,000 pounds of a highly toxic chemical known to cause cancer, bis (2-ethylhexy 1) phthalate, was released into the river, threatening all who depend on the Susquehanna River for drinking water.

This toxic chemical spread downriver, and who knows what long-term damage it has caused. The State and the Federal Government have been forced to attempt the cleanup of the spill, at a substantial additional cost, as a result of their being on the scene at this point.

The ultimate irony is that the vast bulk of toxic waste still remains at the tunnel, and the potential for another major spill during the next major rainfall also remains. The question is: Wouldn't it have been cheaper and safer to clean up the site the first time around?

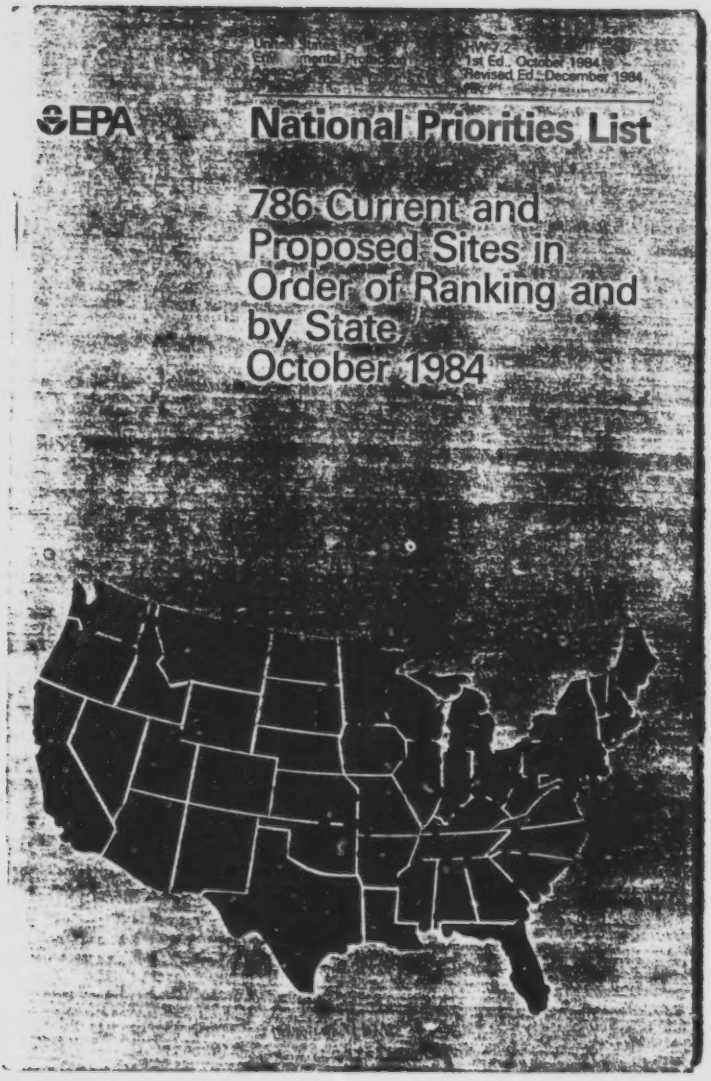
We were lucky this time that a tragedy did not occur that was even greater than what occurred as a result of Hurricane Gloria. The question is: Do we have to wait for another tragedy to address the basic question that I started out my comments with: How clean is clean, and can we have some objective standard by which we can assure that sites are cleaned up?

I am looking forward to our hearing today.

I would like to recognize the gentleman from Minnesota at this point for any opening comments he might have.

[The information referred to by the Chairman follows:]

BEST COPY AVAILABLE



BEST COPY AVAILABLE

Sites Cleaned up to Date[a]

Dropped	State/Site Name/Location	Date
12/82	GA Georgia Luminous Processes,Inc.[b] Athens	1982
9/83	MD Maryland Chemical Metals Industries, Inc.[b] Baltimore	1982
9/84	MI Michigan Gratiot County Golf Course[c] St. Louis	1983
12/82	MS Mississippi Walcott Chemical Co Warehouses[b] Greenville	1982
9/84	OH Ohio Chemical & Minerals Reclamation[b] Cleveland	1982
9/83	PA Pennsylvania Butler Tunnel[b] Pittston	1982
9/84		
9/83		
9/83		
9/83		
9/84		

[a]Does not include sites currently on the NPL with a cleanup status code of "C."

[b]On the Interim Priority List or Expanded Eligibility List, but cleaned up before December 1982, when the first NPL was proposed.

[c]On the first proposed NPL, but cleared up before the first NPL was promulgated in September 1983.

BEST COPY AVAILABLE

Mr. SIKORSKI. I thank the chairman and commend him for having the hearing and welcome the witnesses, especially our colleagues, and again raise the flag that in this debate that this House is undertaking with respect to a reauthorized and stronger Superfund, we just have to look at this example in the debate as to the standards for cleanup and the scheduling for cleanup.

I thank you.

Mr. FLORIO. We are now pleased to have two of our distinguished colleagues from the Commonwealth of Pennsylvania. First we would ask our long-time colleague and associate, Congressman Edgar from the Public Works Committee, who has played a very important role over the years in trying to get Superfund to work in an effective way, and then we will hear from our colleague from the area of Pittston, Mr. Paul Kanjorski, who was very courteous in providing opportunities for Mr. Edgar and myself over this past weekend to go to the site to see the problems that are there.

For me it was the second trip to that area. I went there in 1979 and 1980 when the first problem occurred, and it was a reminder of the potential magnitude of a tragedy that could occur under the worst circumstances.

So Mr. Edgar, we would be pleased to hear from you.

STATEMENTS OF HON. BOB EDGAR, AND HON. PAUL KANJORSKI, REPRESENATIVES IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. EDGAR. Thank you, Mr. Chairman, and to all of you on the panel, I appreciate your willingness to hold this hearing today on the Butler Tunnel site and the problems that we face there.

I would like to begin by commending my colleague, Paul Kanjorski, who comes from the Wilkes-Barre area and who diligently has followed the course of events over the last several weeks, and in fact over the last several years, as it relates to the Butler Tunnel, and brought to our attention a very serious problem that we were able to respond to.

As Mr. Sikorski has said, the movement on Superfund is very important. I was pleased to be a part of that debate and dialog in the Public Works and Transportation Committee, and in fact we were able to place in that legislation an amendment which relates to the Butler Tunnel.

Mr. Chairman, let me read a brief statement and then yield to my colleague. I must leave in a few moments for another meeting, but I want you to know how strongly I feel that action must be taken on this very serious site.

In a sense, there were six clean Superfund sites and now there are five, and this site, which was labeled as clean by EPA, is clearly not clean, from our eyewitness accounts on Saturday morning, from our discussions with staff, and from our observations on the ground, we know it is not clean.

I really appreciate the opportunity to join my distinguished Pennsylvania colleague, Paul Kanjorski, in testifying before your subcommittee today. I am pleased we have this opportunity to look more closely at the Butler Tunnel incident after our tour of the site last Saturday.

BEST COPY AVAILABLE

About a month ago, just before the Superfund law was to expire, we learned that Hurricane Gloria had caused new overflows at the Butler Tunnel in Pittston, PA. Over 100,000 gallons of oily goo were released into the Susquehanna River and floated downstream toward the Chesapeake Bay.

Pennsylvanians can remember that after the 1979 releases at the Butler Tunnel, the U.S. Environmental Protection Agency and the Pennsylvania Department of Environmental Resources initiated a cleanup action under the Clean Water Act. Later, the site was placed on the original interim Superfund national priorities list.

Then in 1982, Rita Lavelle declared the site clean and removed it from the NPL list. Monitors were installed but then were removed in 1984.

As is so often true with the Superfund Program, the facts were different from the appearances.

Fact: The Butler Tunnel site still holds an undetermined amount of hazardous waste and has never really been cleaned up.

Fact: Because the monitors at the mouth of the tunnel were removed, the latest release was detected by citizens living near the river who noticed the odor from the river.

Fact: The Butler Tunnel site may continue to release deadly cyanide gas and other chemicals into homes in Pittston and along the Susquehanna River.

While the EPA and DER did contact and conduct an emergency response to last month's leak, everyone agrees that a long-term action is needed. Therefore, working with Representative Kanjorski, I authored an amendment to the Superfund reauthorization bill to allow an expedited procedure to return this project to the NPL list for Superfund sites deemed clean by the EPA.

When my Public Works and Transportation Subcommittee on Water Resources marked up a committee substitute to Superfund on October 9, this language was included. The Edgar amendment will give the Environmental Protection Agency the funds it needs to find the mother lode of toxics in the Butler Tunnel and clean it up.

But the Butler Tunnel incident raises another, more fundamental question about the conduct of Federal agencies and the conduct of the Federal program to clean up hazardous waste sites. The onsite emergency teams that we saw last Saturday are made up of dedicated professionals. They have moved in and conducted a response action to contain and clean up the new releases from the tunnel. But it was clear to me from that experience and from visiting other sites, that the EPA staff on the ground are uneasy about the decisions being made in Washington.

They are uncomfortable that the administration fought to avoid reauthorizing Superfund when the House passed a tough Superfund bill last year. They are not happy that Lee Thomas has declared a slowdown in EPA cleanup actions until the bill is passed this year.

Their reaction is the same as so many citizens I talk to who are afraid of toxic wastes in their water, air and their soil. They want to take politics out of the Superfund cleanup program, and I can't agree more. The Butler Tunnel situation is a textbook case of what

BEST COPY AVAILABLE

happens when you make it too easy for the Environmental Protection Agency to avoid permanent cleanup at toxic sites.

It shows what happens when you let Rita Lavelle and the regional administrator agree in their 1982 memo that the current discharge of contaminants from the tunnel is at an acceptable level.

The Butler Tunnel fiasco shows that Congress must be more vigilant in overseeing EPA and the administration of Superfund. And since Congress can't be everywhere, it makes the case for a strong Superfund which gives the Environmental Protection Agency flexibility the agency needs to do a job without giving the agency total fiat.

Mr. Chairman, with all due respect to your committee and its members, that is why I worked with Bob Roe and my colleagues on the Public Works Committee to strengthen the provisions of H.R. 2817 regarding cleanup standards, liability and community right-to-know.

I look forward to working with you and your committee to reconcile the two versions of the Superfund bill, preserving the Butler tunnel amendment, of course. We owe nothing less to the citizens of Pennsylvania and to the Nation than to pass a strong Superfund bill.

I thank you for inviting me to testify today.

Mr. FLORIO. Thank you very much.

Congressman Kanjorski, we would be pleased to hear from you.

STATEMENT OF HON. PAUL KANJORSKI

Mr. KANJORSKI. Mr. Chairman and members of the committee, I thank you for the opportunity of testifying. However, I unfortunately would rather not testify because the location of a Superfund site of the magnitude of the Butler Mine tunnel is not complimentary to the Member of Congress who represents that district or the people who have to reside with that type of toxic poison.

So we testify here today not with pride but rather with anxiousness. The citizens that I represent in the Congress of the United States have reasonable questions to the Congress and to this administration. After we have verified this most recent discharge, what are we and what is the administration going to do about it?

Now, the interesting thing is that we all pay our attention to the so-called Butler Mine tunnel, but the Butler Mine tunnel is merely the mouth from which the poisons come into the Susquehanna River. The fact of the matter is that particular area discharges water from approximately 5 square miles under that area of Wyoming Valley.

It is intertwined and laced with other discharge areas up and down the Wyoming Valley, to the tune of over 3,000 miles of mine tunnels and caves and areas that span from the upper extent of the Pittston area to the Nanticoke Falls, which is over 20 miles in length, and intertwined in all these areas are estimates of water contained in the mine tunnels and below in the water surface of water equal to the quantity of Lake Erie.

So what we are basically dealing with here is a monumental disaster for the immediate area of Pittston City, the Wyoming Valley, northeastern Pennsylvania, but, in fact, the entire Susquehanna

BEST COPY AVAILABLE

watershed, which stretches from the areas of Pennsylvania here, after it traverses New York State, down through the rest of Pennsylvania, through the entire State of Maryland into the Chesapeake Bay and out ultimately to the ocean.

The Susquehanna River is the main water source for many communities' drinking. It is an agricultural water source for a good part of Pennsylvania's agriculture, and it obviously is used along that line for at least two nuclear power plants as a coolant. So we can conclude that any material that may pass in that water that is used to cool the atomic water reactors along the Susquehanna River are also being discharged in particles in the air because of the steam that is eventually drawing off and sent into the atmosphere for cooling purposes.

What do we find when we look at this area? We find a people who have worked very hard for hundreds of years, who have contributed to the American process by the mining of coal. They have now had a resurgence economically and culturally and they are coming back. Pittston City, the Wyoming Valley, and northeastern Pennsylvania are in the throes of a major fight.

The President of the United States in October of last year described these type of areas as pockets of poverty. We in northeastern Pennsylvania don't look at it that way; we look at it as pockets of recovery that our system has perhaps left behind and our present administration has ignored.

But the one thing that we can't accept as an area is to have this administration destroy the national policy of the United States and the intentions of the Superfund and the charged mission of the EPA by coming to erratic, irrational conclusions in a site that still contains millions and millions of contaminants, not only in the Butler Minefield area of 5 miles but up and down those honeycombed areas of mine tunnels that have been allowed to have pollutants by illegal travelers from Ohio to New Jersey to Delaware and all of Pennsylvania travel to this area to use this as a cheap source of pollutant discharge over many, many decades.

And now that the discovery is made, in 1979 initially and again now in 1985, the question of the people that I represent is: What in the world is the U.S. Government going to do about it? What in the world has EPA been doing about it? And why don't we have standards? And why don't we have requirements? And why don't we have timetables? And why can't we as American people rely on the Federal Government to provide us with clean water for drinking and water that doesn't carry pollutants such as we have here.

Now, as a member of Congress, I can't answer this question, and I want to thank the chairman of this committee because I know that you have taken on the responsibility to try to do that. I want to aid you in any way that I can, and I want to urge all the Members of the Congress that I can possibly contact that this is probably the most important domestic question in the United States today.

There are 20,000 toxic sites already identified. How can we possibly ignore the need to continue the Superfund, to arm it with the strongest possible enforcement, to even go beyond and provide policing and patrolling so this doesn't continue to occur in the future.

BEST COPY AVAILABLE

It is most ironic that this area that this tunnel and this river discharges into just last year had a geodices crisis that made 150,000 people boil their water for more than 6 months. Well, that was an identifiable little bug, and that little bug exists in our water system around America in all the States and is not partial to northeastern Pennsylvania, but this is a pollutant that can't always be smelled or seen.

Fortunately, this site was detected by sight and smell, but as we know, chemical pollutants are not always identifiable by human senses. What will happen and what has happened to what is coming out of that tunnel and the other tunnels along the Susquehanna River that have interspersed with all the water that are being steamed into the atmosphere in the atomic plants, that are being used for irrigation on the soil and agriculture of America and that are being drunk downstream by more than a quarter of a million people?

No answers to this because, as you have well pointed out, Mr. Chairman, the EPA in 1982 has concluded that this is a clean site even though only 200,000 gallons flowed out, when they of their own knowledge in their own reports indicated that they had evidence that more than 2 million gallons were in there.

Mr. Chairman, I live in this area. I travel up and down the turnpikes and the Interstate Highway System that network this area, and it's a cross section of America, with 84, 81, and 80 right within a 15-mile area of this site. I tell you there is not a day that I am on that Interstate Highway System that I don't see trucks coming up with barrels of waste in containment that disappear in the night and are illegally dumped.

It is not 200,000 gallons, it is not 2 million gallons; it is perhaps tens of millions of gallons. And it is time this government, this agency and this Congress take fast action. We can no longer afford to have toxic cesspools under populations and draining the rivers such as the Susquehanna River.

I urge the Congress and will do everything possible to have the questions answered: when did they know and what did they know? And we in this Congress and this committee must find that out from the EPA and this administration, and we must find it out in these hearings.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Kanjorski follows:]

BEST COPY AVAILABLE

Testimony of

Rep. Paul E. Kanjorski

to the

Subcommittee on Commerce, Transportation and

Tourism

October 23, 1985

Good Morning. I would like to express my appreciation to Chairman Florio and the members of the Subcommittee for the prompt scheduling of this hearing on the Butler Mine Tunnel.

Today's hearing is of importance not only to the residents of Pittston, Pennsylvania, where the Butler Tunnel is located, but also to numerous communities along the Susquehanna River, (among these are Wilkes-Barre, Nanticoke, Shickshinny, Mocanaqua, Nescopeck, Berwick, Bloomsburg and Danville, all in my Congressional District) and the over a quarter of a million people downstream who draw their water supply from the river. In addition, the manner in which the Butler Tunnel problem has been handled - or mishandled to be more accurate - by the Environmental Protection Agency (EPA) since the first spill in 1979, has significance for millions of Americans across the country whose health and safety are threatened by toxic and hazardous waste sites. EPA's mishandling of the Butler Tunnel sends a strong signal that something is wrong.

In 1979, when almost 200,000 gallons of a highly toxic chemical, bis (2-ethylhexyl) phthalate, was discharged from the Butler Mine Tunnel, the EPA spent almost $2 million of Section 311 funds from the Clean Water Act to contain and remove the chemicals from the Susquehanna River. The EPA conducted numerous tests which indicated some two million gallons of hazardous waste

BEST COPY AVAILABLE

were illegally dumped into and still located within the mines. Further investigations revealed that dumping included some 200,000 gallons of cyanide waste.

When Congress authorized the Superfund program in 1980, it was designed to specifically address hazardous sites such as the Butler Tunnel, which was placed on EPA's interim priority list in 1981. Despite the documented evidence collected by the EPA's on-site teams on the volume of hazardous material remaining in the mines and the continuing threat to local residents, EPA removed the site from the priority list and declared the Butler Tunnel clean in 1982. The question that needs to be answered is: How could the EPA declare the Butler Tunnel site clean when not one gallon of the hazardous substance was removed by EPA? It defies rational thought. But then under the present Administration, and the callous political appointees previously in charge of the EPA, I'm sorry to say that concern for the public health and safety was not a priority.

With regard to EPA's declaration in December, 1982 that Butler was a "clean" site, I believe there are several questions that need to be answered. These are:

1) What was the internal EPA process that determined the site was clean?
2) Who at EPA made the recommendation that this was a clean site?
3) Who at EPA reviewed that recommendation and who made the final decision on declaring it clean?
4) Was there contact with or input from anyone outside of EPA concerning the decision?
5) Was the White House consulted with regards to the decision?
6) Did political appointees at EPA put pressure on professional career employees to declare the site clean?

In short, to borrow a phrase - What did they know and when did they know it?

On September 27, 1985 when the rains from Hurricane Gloria once again discharged over 100,000 gallons of the hazardous substance into the Susquehanna, we witnessed a stinging indictment against EPA and their declaration that the Butler Tunnel site was "clean". Last Saturday, Chairman Florio, Congressman Edgar and I conducted an on-site visit to the Butler Tunnel and were informed that just that morning the EPA had discovered at least 70,000 gallons of the concentrated toxic substance in one of the mine shafts. The information to be presented this morning provides disturbing evidence of gross mismanagement by the EPA in the Butler Tunnel situation. Mr. Chairman, the Butler Mine Tunnel case and other information to be provided today makes it clear that we need national standards, timetables and verification for the Superfund program. These decisions cannot be left to the whims of political appointees.

BEST COPY AVAILABLE

Regarding the future of the Butler Tunnel, it is imperative that we protect the health and well-being of the residents of Northeastern Pennsylvania by having this site placed back onto the EPA's priority list. I wrote a letter to Lee Thomas to this effect immediately after learning of the latest discharge. I want to thank Chairman Florio for joining me in a second letter to Mr. Thomas and I hope that we will get an answer to our letter today. I would also like to thank my distinguished colleague from Pennsylvania, Mr. Edgar, for his leadership on this issue and voice my support for his amendment to the Superfund law which would expedite the process for having "clean" sites restored to the priority list if later to be found to be "unclean."

In addition, it is imperative that the EPA devote whatever resources are necessary to clean-up the Butler Tunnel site. If EPA deems it impossible to remove all of the hazardous material from the mine, then a purifying system should be established which would remove the contaminants upon their discharge. In addition, the residents of the Pittston area are currently being exposed to hazardous fumes that are escaping through the numerous bore holes in the area. This situation cannot continue any longer and I call upon EPA to take the necessary action to remedy the situation.

Mr. Chairman, I would like to thank you once again for your leadership and assistance on this matter of vital concern to the residents of Northeastern Pennsylvania.

BEST COPY AVAILABLE

Mr. FLORIO. Let me just express my appreciation to both Members for having brought to our attention this problem. This is going to be an extremely productive hearing because it will afford us the opportunity to use in a case study way this example to address fundamental questions.

Mr. Kanjorski, you raise a point that we will get into a bit later, the whole question of the bore holes that are uncapped that very well could be the source of problems continuing right down to this point, no one monitoring what is going in. And you are right: I talked to people on the scene, and they say that their estimates as to what they know is there, in terms of the volume of toxic waste, are at best minimum estimates, that probably the problem is much worse than that because no monitoring goes on there.

So I am looking forward to today's hearings so that we can get to the bottom of some of these fundamental questions and we can provide some remedial provisions in the law so that none of us are faced with the situation, none of us including EPA. I am sure that EPA is embarrassed by the situation, and no one derives any great satisfaction out of their embarrassment.

What we want to do is to change the law so as to provide for standards that people can follow through on and make sure that when they say something is clean, that it really is clean.

Let me yield at this point to the gentleman from New York.

Mr. LENT. Thank you, Mr. Chairman.

We do have a vote on, and probably our witnesses will not have the time to come back and be questioned, so I just wanted to thank both of them for testifying here today and bringing this to the committee's attention.

Let me also add that I do disagree somewhat with my colleague's suggestion that what is at issue here is the cleanup standards. It is my understanding that the Butler tunnel never got on the final national priorities list and thus was never subject to the cleanup requirements of the national contingency plan.

If a mistake, it would seem to me, has been made here, it was the decision, which I understand was concurred with by the State of Pennsylvania, not to list this site on the national priorities list back in 1982, and it is somewhat difficult for me to understand how the State of Pennsylvania could allow whatever it is, 2, 3, 10 million—one suggestion here—gallons of toxic waste to be dumped into this area without some sort of police action having been taken. The Federal Government can't have FBI agents at every highway crossing.

Thank you, Mr. Chairman.

Mr. FLORIO. Thank you very much.

Before dismissing, let me just say that the gentleman was not here earlier and I will confer with him and just show him the listing by EPA of the six cleaned up sites, and there will be an opportunity through the course of the hearing to discuss this whole question as to what was on that list, why and why not.

So I would just express, in conclusion, my appreciation to the two witnesses and look forward to the rest of our witnesses.

As soon as we reconvene in approximately 10 minutes, we will hear from our second panel of witnesses.

[Brief recess.]

BEST COPY AVAILABLE

Mr. FLORIO. The subcommittee will kindly reconvene.

I am pleased to have our next panel of witnesses: Dixie White, northeast Pennsylvania representative of the National Campaign Against Toxic Hazards; Tom Graham, supervisor of the Danville Water Authority, Danville, PA; and Mr. Joseph Cosgrove of Pittston, PA.

To our witnesses, we welcome you to the committee. Your statements will be put into the record in their entirety. You may feel free to summarize as you see fit, and perhaps we would hear from Dixie White.

STATEMENTS OF DIXIE WHITE, NORTHEAST PENNSYLVANIA REPRESENTATIVE, NATIONAL CAMPAIGN AGAINST TOXIC HAZARDS, ACCOMPANIED BY HENRY COLE, NATIONAL REPRESENTATIVE; TOM GRAHAM, SUPERVISOR, DANVILLE WATER AUTHORITY; AND JOSEPH COSGROVE, PITTSTON, PA

Ms. WHITE. My name is Dixie White. I am here today representing the Pennsylvania Public Interest Coalition, the largest consumer organization in the Commonwealth, a statewide coalition of over 100 environmental, consumer, senior citizen, religious, community, civil rights, and trade union organizations.

Before I begin my remarks, primarily a community impact statement, I would like to defer briefly to Dr. Henry Cole from the National Campaign for some initial and general remarks. Penn-PIC is affiliated with the National Campaign Against Toxic Hazards, and we have drawn heavily on Dr. Cole's expertise in our work on Butler Tunnel.

Mr. COLE. Thanks very much for the opportunity, Mr. Chairman, to come before you and talk about this very urgent problem. I am here on behalf of the National Campaign Against Toxic Hazards, and we are the group that you referred to who predicted exactly a year ago, almost to the date, that with flooding, with high water, the tunnel could discharge one more into the Susquehanna River.

I'm not the kind of person who likes to say we told you so, but it is very tempting to tell that to EPA.

The most tragic thing about this episode is that it could have been prevented. Over the past 6 years, EPA has had ample warnings and sufficient time to implement an effective remedy. EPA has known since the 1979 episode that massive amounts of waste remain in the tunnel.

Also, in the period between July 1979 and the recent episode, there have been a series of smaller-scale discharges. Residents, owners of recreational businesses and public officials have all reported chemical sheens and odors near and downstream of Butler tunnel on an ongoing basis since 1977.

Most significantly, EPA's own onsite coordinator, who we will hear from today, warned that continued investigation to locate the source of wastes and efforts to remove or control the wastes within the tunnel would be needed to prevent repeated discharges to the Susquehanna River.

We were able to get ahold of these documents last year, and released a report stating that this episode was likely to repeat. We sent a copy of the report to the Administrator of EPA and urged

BEST COPY AVAILABLE

the Agency to initiate a source removal, source control program at the tunnel. This was a year ago.

But high officials at EPA have continually ignored the warnings. In 1982 they rushed to remove Butler Tunnel from the proposed NPL in December of 1982. The delisting is particularly strange, as Chairman Florio said, because the hazard ranking scores were well above the 28.5 cutoff used to establish eligibility for the NPL list.

By delisting Butler tunnel, the Agency shut off the possibility that Superfund money could be used to do a remedial investigation and an evaluation of alternative ways to prevent future discharges to the Susquehanna River.

It is true that the Agency has made valiant efforts to contain and clean the chemical ooze on Susquehanna in 1979 and again last month; however, the wastes tend to escape capture. An EPA document indicates that only about 60,000 gallons of the 160,000 gallon discharge in 1979 were collected from the river. Thus, an array of toxic chemicals with potential effects ranging from cancer, birth defects, to central nervous system damage and liver damage, escape control. The same thing is likely to have happened in the last spill.

These repeated cleanups are expensive. For example, the 1979 cleanup activities amounted to nearly $3 million in Federal and State money.

The recent spill contained a chemical, bis(2 ethyl hexyl) phthalate, which is known to cause cancer in animals and is suspected to cause cancer in humans. What is more, it tends to resist break down in an aquatic environment, builds up in sediments, and to bioaccumulate.

Now, let me say that even if the mine wastes were very difficult to clean up, and took a long a prudent course of action would have been to have all of the necessary control equipment near the site or to consider interim measures such as diversion of the spill so that it wouldn't just plummet into the river.

What started as a bad decision in the Burford-Lavelle era has remained in effect under Administrator's Ruckelhaus and Thomas for the past 2½ years. There is still no indication that EPA has changed its position on the need for long-term cleanup. We hope that Mr. Hedeman today, nearly a month after the second episode, breaks the Agency's silence on Butler Tunnel.

Finally, I want to make the point that the out-of-sight, out-of-mind approach used at Butler Tunnel continues to be EPA's modus operandi. A recent study conducted by the National Campaign looked at cleanup methods used or planned by EPA at 25 different sites.

The study, which I authored found that EPA continues to rely on off-site disposal and on-site containment. These methods both leave huge volumes of waste in the ground and communities vulnerable for generations.

The experience at Butler Tunnel and other Superfund sites clearly indicates that Congress in its Superfund reauthorization must give much greater guidance to EPA in its choice of cleanup methods. There is need not only for cleanups to meet health-based standards contained in other laws but also language requiring per-

BEST COPY AVAILABLE

manent treatment of hazardous wastes wherever feasible and achievable.

In addition, we favor a provision in the Public Works version of the bill that would require automatic relisting of a delisted Superfund site if additional problems occur.

I would be glad to answer questions and would yield the floor to Dixie White.

Ms. WHITE. As Dr. Cole indicated, Penn-PIC first issued a warning about Butler tunnel exactly 1 year ago when the National Campaign released its report. We did that through media in the Scranton/Wilkes-Barre area and through our many affiliates up in that area.

Again, on July 11 John O'Connor, head of the National Campaign Against Toxic Hazards, visited the area to meet with coalition leaders and media to talk about problem sites in the area.

I would like to comment that the Butler tunnel is not the only problem in that area. Just upriver on the Lackawanna River, 10 miles upstream, there are two Superfund sites affecting the Susquehanna. Just downstream, the McAdoo site, the worst one in Pennsylvania, affects ground water in the Susquehanna River basin.

There are 72 ERRIS list sites just in Luzerne and Lackawanna Counties.

So we have continued to raise the issue, most recently on September 20. The National Campaign's Superdrive for Superfund truck passed through in September and, we held several rallies in the area, one in Old Forge, 700 people attended, and again we forewarned of the Butler tunnel recurrence.

As Dr. Cole said, this is not the sort of prognostication one is proud of, not when public health and safety are at stake.

How has the Butler tunnel affected residents at the Pittston area and downstream areas? There are severe data gaps that make it impossible to know how the continued discharges have affected public health. Residents of the Mill Street and Mill Hill area just above the tunnel have reported severe chemical odor problems repeatedly over at least the last 13 months.

These are primarily members of one of our affiliates, the Ladies Garment Workers, many of them retirees living in that area. They have experienced headaches, sinus problems, raw, burning throat and other upper respiratory difficulties.

One woman said to me: "I saw on TV that this stuff from the tunnel causes cancer. What kind of cancer? Is that the stuff I'm smelling? What are the long-term effects of inhaling it? It's all a mystery, and I'm afraid of the unknown."

Moreover, DER has told residents when they have called to report the odors to the police. However, a check of public safety officials in the Pittston area shows that no records are kept of such calls. Why? They could keep those records. It is simply that no one ever asked them to keep those records.

Another gap in the data is the lack of any continuous air monitoring for vapors on the area of the tunnel mouth. The lack of monitoring, the absence of a systematic log of complaints, and the disconnection of the automatic warning monitor at the tunnel

BEST COPY AVAILABLE

makes it impossible to relate reported odors to releases from the tunnel.

To our knowledge, there has been no continuous monitoring of the bore holes that link toilets and, therefore, household air to whatever fumes are in the mines.

Thus, it is not possible to answer the questions of community members or to assure their safety.

Recreation on the Susquehanna River has also been affected. Tom Durkin is proprietor of Uncle Eyeball's Mountain Travelers Emporium in Wilkes-Barre. He first noticed a slick on the river in 1977, 2 years before the first alleged major spill. He switched the canoeing takeout points from Wilkes-Barre, just 2½ blocks from his store, to West Pittston in order to avoid the slick and its odors. That has created inconvenience for his business and his customers.

Bob McCullogh of Trout, Unlimited no longer will keep or eat the fish that he catches downstream of the Butler tunnel.

We are also concerned about the long-term health effects of fish consumption. Repeated discharges may lead to an accumulation of toxic residues in fish, particularly bottom feeders. Let there be no doubt that people are eating the fish.

Art Rowe in Wilkes-Barre has fished at the same spot since he was 12 years old, 61 years ago. He read DER's warning on September 29 warning that people should not fish because the slick could cause skin irritations if touched. He checked the river, he saw no slick, and so he went fishing anyway, every other day for the next 2 weeks. He gave the fish to his friends, as usual, and as usual, they ate them. Were they safe to eat?

Citizens of Pittston and downstream areas feel they can't trust the regulatory agencies. They have been told repeatedly that the problem isn't serious, that the water is safe to drink, the air is safe to breathe and the tunnel is cleaned up. The residents don't believe it, we don't believe it, and you shouldn't believe it either.

Discharges from the Butler tunnel will undoubtedly occur again unless EPA conducts an effective cleanup program. EPA should immediately initiate the following actions.

First, the Butler tunnel should be relisted as an active NPL site. Second, they should immediately resume a thorough investigation to identify the important sources of contamination in the mine and in adjacent areas, including a feasibility study.

What are alternatives for removing or controlling chemical waste sources in order to prevent and/or contain future discharges? They should immediately initiate interim measures to minimize the damage of new spills. Why did it take 2 days to get booms and skirts in place this time? They should be on site.

EPA should resume studies of the potential exposure to cyanide gas and other fumes in Pittston. They should launch a study to determine whether contaminants from Butler and those other sites and sources are accumulating in river sediments and in aquatic organisms.

Clearly, the public needs clearer information when there is a release. Is it safe to swim, to boat, to catch and eat the fish, to draw drinking water supplies? Art Rowe did not get a clear message. He should have.

BEST COPY AVAILABLE

The experiences at Butler Tunnel and other sites highlight the need for a strong Superfund reauthorization, one that contains health-based standards, a requirement for permanent cleanups, and at least $10 billion to allow for better cleanups.

The new Superfund should better enable citizens to participate in decisionmaking. Penn-PIC, the National Campaign Against Toxic Hazards, people living near the Butler Tunnel have attempted to get EPA to address the millions of gallons of waste remaining in the mine. EPA hasn't responded. It has been exactly a year.

We have seen the same thing at other sites. EPA should start to listen. It would save them a great deal of grief in the end.

What kind of price can you place on public health and safety?

One provision that is essential is a technical assistance measure such as that contained in the Energy and Commerce version of the bill, which allows the use of fund money to provide grants to communities. That version is superior to the Senate version which requires separate appropriations to fund technical assistance grants.

Moreover, we hope that you will exert your influence on EPA to see that the Agency promotes the use of this discretionary program. It would also be helpful to have formal hearings on remedial alternatives before decisions are finalized. This would allow citizens to cross examine EPA to bring important information into the open. Citizens raise good questions—after all they have to live with the decisions and the chemicals.

Thank you.

[The prepared statement of Mr. Cole follows:]

BEST COPY AVAILABLE

STATEMENT OF

HENRY S. COLE, PH. D., SENIOR SCIENTIST, CLEAN WATER ACTION PROJECT, SCIENCE DIRECTOR, NATIONAL CAMPAIGN AGAINST TOXIC HAZARDS

My name is Henry S. Cole, I am Senior Scientist at Clean Water Action Project and appear on behalf of the National Campaign Against Toxic Hazards, the nation's largest coalition of environmental, labor, public health and grassroots organizations working to solve the nation's toxic problems. Also with me is Dixie White representing the Pennsylvania Public Interest Coalition (Penn-PIC), an affiliate of the National Campaign. We would like to thank Congressmen Florio and the other members of the subcommittee for the opportunity to speak on the issue of Butler Tunnel.

Before Ms. White discusses the local implications of the Butler Tunnel case, I would like to make several general points. First, last month's episode is not surprising given EPA's limited remedial response to the 1979 episode. Remedial activites were limited largely to cleaning the river; millions of gallons of hazardous wastes were left in the mine. The situation is essentially unchanged, and communities along the Susquehanna River continue to be vulnerable. The Butler "cleanup" is not so different from cleanups being carried out or planned at other sites. To this date the Agency's choice for nearly all Superfund cleanups is to contain the waste onsite or to haul the waste to offsite landfills. Vast quantities of highly toxic waste remain in the ground. The Agency has done little to use treatment technologies which destroy, detoxify or immobilize chemical wastes and offer protection on a permanent basis. It is no wonder then, that Superfund sites such as Butler Tunnel need to be "revisited."

What is tragic, is that the recent episode at Butler Tunnel could have been prevented. Over the past six years, EPA has had ample warnings and sufficient time to implement an effective remedy:

o EPA has known since the 1979 episode, that massive amounts of waste remain in the tunnel. The evidence is a matter of simple arithmetic: millions of gallons of waste were dumped into the mine while only hundreds of thousands of gallons of waste have been discharged.

o In the period between the July 1979 episode and the recent episode there has been a series of smaller scale discharges (September 1979, March 1980, April 1983). Residents, owners of recreational businesses and public officials have all reported chemical sheens and odors near and downstream of Butler on an ongoing basis since 1977.

o The On-Site-Coordinator warned in 1980 that continued investigation to locate the sources of waste and efforts to remove

BEST COPY AVAILABLE

or control the wastes were needed to prevent repeated discharges to the Susquehanna River.

o NCATH report October 1984 predicted that flooding could trigger a repeat episode. The report, sent to the Administrator of EPA, similarly urged the agency to initiate a source removal/source control program at Butler Tunnel.

Despite these warnings, high officials at EPA rushed to remove Butler Tunnel from the proposed NPL in December of 1982. Region III Administrator in requesting the delisting stated that the risks had been reduced to acceptable levels and that no further remedial action was necessary. (See memo from Peter N. Bibko to Rita Lavelle, December 10, 1982).

The delisting is particularly strange given the fact that the most valid, and most recent Hazard Ranking System score for Butler Tunnel, of 45.55 (August 24, 1982) is well above the 28.5 score used to establish eligibility for the National Priorities List. (1981 HRS scores of 72.37 and 53.19 were also obtained, the lower score discounted the significance of community exposure to cyanide gas from Butler Tunnel via boreholes. A July 16, 1982 score of 5.21 assumed zero contaminant levels at the nearest major drinking water inlet; this score is not representative of the potential for major discharges to the river, a potential that still exists.)

By delisting Butler Tunnel, the Agency shut-off the possibility that Superfund money could be used to do a remedial investigation and an evaluation of alternative ways to prevent future discharges to the Susquehanna River.

It is true that the Agency made valiant efforts to contain and clean the chemical "ooze" on the Susquehanna in 1979 and again last month. However, the wastes tend to escape capture. An EPA document indicates that only about 60,000 gallons of the 160,000 gallons released in 1979 were collected from the river. Thus an an array of toxic chemicals with potential effects ranging from cancer and birth defects, to central nervous system damage, and liver damage escaped control. Moreover, the cleanups are expensive, the 1979 cleanup activities amounted to nearly $ 3 million in federal and state expenditures.

The recent spill contained high concentrations of bis (2-ethylhexyl) phthalate which is known to cause cancer in animals and suspected to cause cancer in humans. The chemical is also a skin irritant and tends to break down slowly in aquatic environments, to build up in sediments and to bioaccumulate. A substantial portion of the discharge escaped control during the heavy surge period at the beginning the episode. A prudent course of action would have been to have all necessary equipment stored

BEST COPY AVAILABLE

near the site. Had the site remained on the NPL, or had it been relisted, this precaution could have been part of an interim measure.

What started as a bad decision in the Burford/Lavelle era, has remained in effect under Administrators Ruckelshaus and Thomas for the past two and one-half years. There is still no indication that EPA changed its position on the need for long term cleanup needed to prevent repeats. EPA has not answered the Campaign's 1984 or recent requests to "relist" the site on the National Priorities List (NPL). To our knowledge EPA has not answered similar requests from members of Congress. The longer EPA waits, the greater is the probability that the Tunnel will again discharge its toxic wastes, including carcinogens, to the Susquehanna River.

We hope that the EPA Administrator's representative today will disclose a change in course for Butler Tunnel.

Finally, I want to reemphasize that the "out-of-sight-out-of-mind" approach used at Butler Tunnel, continues to be EPA's "modus operandi."

A recent study of EPA's selection cleanup methods at 25 Superfund sites demonstrates that the philosophy has yet to change. The study, conducted by NCATH, found that EPA continues to rely on offsite disposal and onsite containment. These methods have not proven effective in the long term; the weight of the evidence indicates that structures of clay and plastic will fail, sooner or later, to stop the seepage of dangerous chemicals into the environment. As in the case of Butler Tunnnel, the communities will remain vulnerable for generations. Examples from the study include:

o Lone Pine Landfill, Freehold, N. J. EPA's remedial plan will leave in place tens of thousands of drums containing a variety of toxic chemicals including the potent human carcinogens benzene and vinyl chloride. The flow of chemicals into the groundwater (already contaminated) may increase as additional drums rust through. EPA has rejected proposals from a technical review group appointed by local government for excavation and thermal destruction of the wastes. Instead EPA plans to use a cap and a slurry wall to contain wastes and a pump and treat system to retard offsite migration of contaminated groundwater.

o LeBounty Site, Cherles City, Iowa. The cleanup prescribed in a consent decree will leave 700,000 cubic yards of pharmaceutica waste including 3000 tons of arsenic at a site located partially on the floodplain of the Cedar River. Rather than eliminate this potent source of contamination, EPA relies on a groundwater

BEST COPY AVAILABLE

diversion system to reduce the flow of contaminants into the river. The cleanup plan has been strongly criticized by state and local officials who fear that the arsenic laden mass will continue to threaten the river and an important groundwater aquifer which underlies the site. Officials from state agencies have recommended eliminating the arsenic wastes from the site.

The experience at Butler Tunnel and other Superfund sites clearly indicates that Congress in its Superfund reauthorization must give greater guidance to EPA in its choice of cleanup methods. There is a need, not only for cleanups to meet the health based cleanup standards of other laws, but also for language requiring permanent treatment of hazardous wastes wherever "feasible and achievable." In addition, we favor, a provision in the Public Works version of the reauthorization, that would require automatic relisting of a delisted Superfund site, if additional problems occur.

Statement of Dixie White, Penn-PIC.

I am here today representing the Pennsylvania Public Interest Coalition (Penn-PIC). This is the largest consumer organization in the Commonwealth, a coalition of over 100 environmental, consumer, senior citizen, religious, community, civil rights and trade union organizations.

Penn-PIC has been involved in the toxics issue for several years. We successfully brought together a variety of organizations to win a strong Right-to-Know Law. This strong coalition is needed given that the state has more than 50 Superfund sites, and hundreds of additional problem sites.

Exactly one a year ago, as part of our work to win reauthorization of a strong Superfund, Penn-PIC released the National Campaign's report on cleanups at the six delisted sites. The report cited the danger of repeat episodes at the Butler Tunnel site unless EPA acted to take precautionary measures. We urged EPA at that time to relist the site and we urged Congress to include mandatory cleanup standards in the new bill.

We have continued to raise the issue. On July 11 of this year, John O'Connor visited the area to meet with coalition leaders and media to talk about problem sites in the area and reissued the warning on Butler Tunnel.

On September 20, in connection with the arrival of the National Campaign's Superdrive truck over 700 people from the area attended a rally in nearby Old Forge. As the attached newsclip shows, Penn-PIC again forewarned of a Butler Tunnel recurrence. Unfortunately exactly 7 days later, the prediction came true.

BEST COPY AVAILABLE

How has Butler Tunnel affected residents of Pittston and downstream areas? Severe data gaps make it impossible to know how the continued discharges have affected public health.

Residents of the Mill Street area above the Tunnel have reported severe chemical odor problems repeatedly over the last 13 months. They have also experienced headaches, sinus problems, raw burning throat, and other upper respiratory complaints. One woman said, "I saw on TV that this stuff from the tunnel causes cancer. What kind of cancer? Is that the stuff I'm smelling? What are the long term effects of inhaling it? It's all a mystery and I'm afraid of the unknown." Moreover, DER told residents to report odors to the police. However, a check of public safety officials in Pittston shows that no records are kept of such calls. Why? No one ever asked them to keep those records.

Another gap in the data is the lack of any continous air monitoring for vapors in area of the tunnel mouth. The lack of monitoring, the absence of a systematic log of complaints and the disconnection of the automatic warning monitor at the tunnel makes it impossible to relate reported odors to releases from the tunnel. To our knowledge, there has been no continued monitoring of the boreholes that link toilets and therefore household air to whatever fumes are in the mines. Thus it is not possible to answer the questions of community members or to assure their safety.

Recreation on the Susquehanna has also been affected.

o Tom Durkin, proprietor of Uncle Eyeball's Mountain Traveler's Emporium in Wilkes-Barre, first noticed a slick on the river in 1977 and switched the canoe takeout point from Wilkes-Barre to West Pittston in order to avoid the slick and its odors.

o Bob McCullough, of Trout Unlimited no longer keeps or eats the fish he catches downstream of the Butler Tunnel.

We are also concerned about the long term health effects of fish consumption. Repeated discharges may lead to an accumulation of toxic residues in fish, particularly bottom-feeders. Let there be no doubt that people are eating the fish.

o Art Rowe, of Wilkes-Barre has fished the same spot for 61 years. He read DER's September 29 warning that people should not fish because the slick could cause skin irritations if touched. He checked the river, saw no slick and went fishing anyway for the next two weeks. He gave the fish to his friends who ate them.

Citizens of Pittston and downstream areas feel they can't trust the regulatory agencies. They have been told repeatedly that the problem isn't serious, that the water is safe to drink, the

BEST COPY AVAILABLE

air is safe to breath, the tunnel is cleaned up. The residents don't believe it. We don't believe it. You shouldn't believe it either.

Discharges from the Butler Tunnel will undoubtedly occur again unless EPA conducts an effective cleanup program. EPA should immediately initiate the following actions:

1. The Butler Tunnel should be relisted as an active NPL site.

2. EPA should immediately resume a thorough investigation to identify the important sources of contamination within the mine and in adjacent areas. The investigation should include a feasibility study to examine and recommend alternatives for removing or controlling chemical waste sources within the mine in order to prevent future discharges.

3. EPA should immediately initiate interim measures to minimize the damages associated with any new spills until a permanent solution is implemented.

4. EPA should resume studies of the potential exposure to cyanide gas and other fumes in Pittston.

5. EPA should launch a study to determine whether contaminants from Butler and from other sites/sources are accumulating in river sediments and in aquatic organisms. In the event of future releases, EPA must give much clearer information to the public: is it safe to swim, boat, catch and eat fish and draw drinking water supplies?

The experiences at Butler Tunnel and at many other Superfund sites highlight the need for a strong Superfund reauthorization, one that contains health based standards, a requirement for permanent cleanups and at least $ 10 billion to allow for better cleanups.

The new Superfund should better enable citizens to participate in decision-making. Penn-PIC, the National Campaign and citizens living near Butler Tunnel, have attempted to get EPA to address the millions of gallons of waste remaining in the mine. EPA hasn't responded, its been exactly a year. Citizens living near other sites have had similar experiences. EPA should start to listen; it would save them a great deal of grief in the end. One provision that is essential is a technical assistance measure such as that contained in the Energy and Commerce version of the bill which allows the use of fund money to provide grants to communities. (This version is superior to the Senate version which requires separate appropriations to fund technical assistance grants.) Moreover, we hope that congress will exert its influence on EPA to see that the Agency promotes the use of this discretionary program.

It would also be helpful to have require formal hearings on remedial alternatives before decisions are finalized. This would allow citizens to raise questions, to get information and to make points in a more forceful way.

BEST COPY AVAILABLE

Superdrive For Superfund To Visit Old Forge Friday

"Superdrive for Superfund" will come to Old Forge and McAdoo on Fri., Sept. 20, as part of a coast-to-coast truck tour of toxic dumpsites organized by PennPIC and other organizations affiliated with the National Campaign Against Toxic Hazards. Superdrive for Superfund will visit 120 cities from Maine to California on the tour, which ends in Washington DC on September 26.

In Old Forge, participants will gather at the Old Forge School District parking lot on Marion Street at 1:15 p.m. The school overlooks the Lackawanna Refuse Superfund site (ther is a second Superfund site in Old Forge at Lehigh Electric and Engineering). Participants will include activists from the Old Forge Toxic Waste Removal Committee, Sierra Club, PennPIC (Pennsylvania Public Interest Coalition), local trade union leaders, Old Forge School District students and personnel, and residents from several of the Superfund sites in Lackawanna and Luzerne Counties.

At 5:30 p.m., participants will gather on Route 309 in the Haddock Area near the ramp from Exit 39 of I-81. Participants at this site will include activists from Concerned Citizens of Schuykill County, West Hazleton - based Citizens Against Toxic Waste, the Sierra Club, PennPIC, and area elected officials and trade union leaders.

At both sites, participants will load the Superdrive truck with samples of soil, water and air from area neighborhoods with toxic problems, along with petitions and letters to their US Senators and Congressmen, calling on Congress to support a strong Superfund Reauthorization bill. Superfund expires October 1, and Congress is expected to act within weeks on bills to strengthen the Superfund toxic waste clean-up program (a Senate vote is tentatively scheduled for Sept. 18). Nationwide, more than 1 million citizens have signed petitions calling for a stronger Superfund, in a door-to-door campaign by canvassers from PennPIC and affiliated organizations in other states.

The purpose of Superdrive for Superfund, according to Pennpic spokesperson Barry Glass (NE PennPIC, Allentown; UAW Local No. 677) is to "send a message to Washington that our communities are contaminated with toxic wastes, we want them cleaned up now rather than when it's too late, and we need a strong Superfund program to get the job done."

There are five Superfund sites in the 10th Congressional District including Lackawanna Refuse (Old Forge), Lehigh Electric and Engineering Co. (Old Forge), Taylor Borough Dump, Brodhead Creek (Stroudsburg), and Whitmoyer Laboratories (Jackson Township). In the 11th CD, there are three Superfund sites including Domino Salvage Yard (Valley Township), Palmerton Zinc Pile, and McAdoo Associates (McAdoo Borough-Kline Township). In addition, there are 19 other Lackawanna County sites and 53 in Luzerne County on the ERRIS list, earmarked by state and regional environmental officials for assessment and, if necessary, on site investigation.

The Butler Tunnel site in Pittston is one of only 6 in the entire nation for which EPA claims total cleanup during Superfund's first five years of operation. During a July visit to the Scranton-Wilkes-Barre area, however, John O'Connor, head of the National Campaign Against Toxic Hazards, noted that the Butler Tunnel site was "cleaned up" under the Clean Water Act, not Superfund. O'Connor also stated that NCATH's evaluation is that failure to remove the "mother lode" of chemicals from the Butler Tunnel leaves the potential for a repeat of the original discharge of toxic chemicals into the Susquehanna if the tunnel should flood again.

Dan Donovan, Superintendent of Old Forge School District, noted that he is pleased Superdrive is coming to the area. "We have serious problems in Old Forge. The future of Old Forge and all of Lackawanna County is at stake here. We need sufficient funding for a real cleanup so that our children and future generations can have a safe and healthy future."

Pennsylvania has 54 sites currently on the Superfund list of sites involving imminent danger to public health, and six more sites were added by EPA last week.

TRIBUNE BANNER 9-19-85

BEST COPY AVAILABLE

PENNSYLVANIA
PUBLIC INTEREST
COALITION

Penn PIC, NORTHEAST CHAPTER
626 North Maxwell Street
Allentown, PA 18103
(215) 434-4406

Latest Butler Mine Tunnel discharge forewarned

Citizens Voice, Wilkes-Barre, Pa. — Wednesday, October 2, 1985 — 19

By MIKE McGLYNN
Citizens' Voice Staff

Anyone surprised by the latest toxic discharge from the Butler Mine Tunnel at Pittston dare not blame the Pennsylvania Public Interest Coalition.

It was only on Sept. 20 — 12 days ago — that the coalition said in a news release that "failure to remove the 'mother lode' of chemicals from the Butler Tunnel leaves the potential for a repeat of the original discharge of toxic chemicals into the Susquehanna, if the tunnel should flood again."

Last week, with the help of rains flanking Hurricane Gloria, the Butler Mine Tunnel was flooded again. And toxic chemicals were discharged into the Susuquehanna River again, endangering the water supplies of communities far downriver of Pittston and the Wyoming Valley.

Ironically, it was only on Monday, Sept. 30, that the term of legislation mandating the existence of the federal government's "Superfund" — money earmarked for cleaning up toxic-waste sites — expired. On the floor of the House of Representatives Tuesday, the life of Superfund was extended by a voice vote; the Senate will vote on the extension legislation today or later this week.

Dixie White, a spokesman for the PPIC, told the *Citizens' Voice* Tuesday that the fate of the Butler Mine Tunnel has become the focus of "a great deal of national interest."

The remarks directed at the apparent failure of cleanup efforts at the Butler Tunnel were made by John O'Connor, head of the National Campaign Against Toxic Hazards, when he visited the Wilkes-Barre/Scranton area in July to check on progress in efforts to clean up hazardous waste sites in Lackawanna, Luzerne and Monroe counties, as part of the "Superdrive for Superfund" campaign aimed at prodding the federal Environmental Protection Agency to hasten what the NCATH regards as its less-than-forthright attempts to clean up hazardous waste sites, 54 of which are located in Pennsylvania.

To date, O'Connor noted during his visit to the area, no Superfund money has gone toward clean-up of the Butler Tunnel. What money has gone toward eliminating the toxic discharge, he pointed out, was authorized under the Clean Water Act — an observation that was confirmed Monday by Congressman Paul E. Kanjorski.

Kanjorski Tuesday spoke on the House floor in favor of extending Superfund legislation and urged that priority status be given the Butler Tunnel, not only for the sake of the Wyoming Valley, but to assure a safe water supply for those downriver communities which derive their water supply from the Susquehanna.

Additionally, Superdrive for Superfund efforts in Northeastern Pennsylvania have focused attention on two toxic waste sites located in Old Forge, Lackawanna County (Lackawanna Refuse and Lehigh Electric and Engineering), the Taylor Borough Dump in Lackawanna County and the McAdoo Associates site located in McAdoo Borough and Kline Township, Schuylkill County.

CENTRAL PA
1524 N. 3rd St.
Harrisburg, PA 17102 2018
(717) 232-5053

NORTHWEST
2151 Saxonburg St.
Erie, PA 16502 2705
(814) 459-2974

STATEWIDE OFFICE
37 South 13th St.
North Floor
Philadelphia, PA 19107 1391
(215) Self 8145/0830

PITTSBURGH
107 6th St., Suite 1207
Pittsburgh, PA 15222 1309
(412) 765-3067

NORTH CENTRAL PA
1117 W. College Ave., 1st Floor
State College, PA 16801 2623
(814) 238-4171

BEST COPY AVAILABLE

Mr. FLORIO. Thank you very much.
Mr. Graham.

STATEMENT OF TOM GRAHAM

Mr. GRAHAM. Thank you, Mr. Chairman.

My name is Tom Graham. I am from the Danville Water Department. We draw our drinking water from the north branch of the Susquehanna.

I feel honored that I was invited here to talk today, although I wish it were under different circumstances.

I believe I was invited to speak today to inform everyone as to the effects the Butler Mine spill had on Danville's water supply. The Butler Mine spill could have had catastrophic effects at Danville.

I think we need to begin with a brief description of Danville's reserve capacities. Under ideal conditions at Danville, the capacity at Danville is about 3 million gallons, maximum, of stored water. Under normal circumstances that equates to about 34 hours worth of water supply.

At the time of the spill, Danville was intentionally only at half capacity. This is the time of the year that we drain the tank for maintenance and cleaning purposes. So that equated to 17 hours worth of water. However, we were warned ahead of time that the slick was on its way, so that by the time we were forced to shut our intakes from the Susquehanna River, we were able to build that supply back up to 2.2 million gallons, or 26 hours worth of water.

Glorio may have caused the spill at Butler mine, but it actually did serve to help Danville. The river was abnormally high, and the dilution factors at that time were tremendous. Based on these factors and some professional opinions, we only stayed out of operation for approximately 6 hours until the major slug passed by Danville. Had the river been at normal flow and level for that time of the year, we may have ultimately run out of water.

I really don't want to give you statistics or anything like that. I think what I am trying to impress you with is the fact that Danville cannot sustain any prolonged shutdown. By prolonged, you could interpret that at 10, 12, 16 hours would be prolonged, as far as we are concerned.

I use the phrase "could have been" catastrophic. In Danville we have the Geisinger Medical Center; the Danville State Hospital; TRW, Inc.; KVS, Inc.; and numerous other factories, businesses, and institutions, all dependent on the authority in Danville for their water. I don't think catastropic is overemphasizing.

The most immediate and long-term effect of the spill can be defined in the word "apprehension." The people of Danville are once again reminded that their drinking water comes from the suspect north branch of the Susquehanna. Butler mine serves to reinforce their belief or their misbelief that the Susquehanna is not a viable source for drinking water.

In concluding, I would like to reiterate that Danville has an extremely limited reserve capacity and that the health and economic and psychological effects that the Butler mine did or almost did bestow on the people of Danville was tremendous.

BEST COPY AVAILABLE

Danville's water plant was built in 1976. It is equipped with backup upon backup. I believe that we are better equipped than a nuclear plant. The only thing we don't have is a backup for the Susquehanna.

Thank you.

Mr. FLORIO. Thank you very much.

Mr. Cosgrove.

STATEMENT OF JOSEPH COSGROVE

Mr. COSGROVE. Thank you, Mr. Chairman.

Mr. Chairman, I am attorney Joseph Cosgrove from Pittston. I am representing Pittston as special counsel on toxic waste. I am also a concerned citizen and a lawyer in the city of Pittston.

I wish to thank the committee for this opportunity to raise the questions and vital concerns of our citizens regarding the Butler tunnel disaster. I also wish to thank you, Mr. Chairman, and Representative Edgar and our Representative Paul Kanjorski, who participated with me in an onsite inspection last Saturday of the Butler tunnel.

Mr. Chairman, the people of Wyoming Valley are once again subjected risk and hazard created by others than themselves. The onslaught of Hurricane Gloria, the allegedly dormant Butler mine tunnel and its contingent of poison ignited a time bomb fuse.

Thousands upon thousands of gallons of toxic waste began to flow from the tunnel into the Susquehanna River at Pittston, just two blocks from my law office, two blocks from downtown Pittston. How could this be, we asked. After all, we have been told by our Government in Washington that this super dangerous place had been cleaned up with the help of Superfund legislation.

Our people are sincere and trusting, as Representative Kanjorski can attest. They take their patriotism seriously. If Washington said it, we were at least cordial enough to accept it and would demand strict proof to the contrary. Unfortunately, strict proof is what we got, in the form of the fixed sludge that gushed forth from the Butler tunnel during Gloria.

Now, unfortunately, Mr. Chairman, that trust has turned to anger and to fear, a fear for the safety and conditions of our families, our friends, our children, and the very existence of our community.

My office is a storefront type on Pittston's main street. For the past few weeks, the usual small talk of passersby has turned from sports and the like to the deep-seated questions about "that stinking hole." The questions are quite solemn: Who lied to us? Will they clean it this time? Are we another Love Canal? How safe is it for our children?

Unfortunately, the air of Pittston and that of the entire Wyoming Valley is filled with deep resentment over this superflap of Superfund, and we also fear that this air is filled with something more, the toxic molecules emitted by the tunnel pouring poison and the yet to be discovered lode of deadly waste below us.

Not everyone trusted. You heard the witnesses today who testified that this has been raised, and the issue of what is really below the city of Pittston has been raised many times before. There was a

BEST COPY AVAILABLE

grassroots environmental movement that formed around the time of the first tunnel problem. This group was primarily concerned with the question of quality of the area's drinking water, which, by the way, the drinking water had been scheduled to be pulled from a site near the Butler tunnel in 1976.

They had monitored the Butler tunnel project and questions were asked at the time of the alleged clean bill of health by EPA, questions dealing with the declared reality that there were continued toxins in the mine below. The media was contacted, but it seems that a general resignation to the official statements of government folk was far more acceptable than continued concern.

We may be guilty, Mr. Chairman, of burying our heads in the trust of a government agency, but from where I come, government is supposed to be trustworthy. It cannot be handled the same way this time. The people of greater Pittston and Wyoming Valley will not accept the simple and quickly delivered answers to these most pressing questions.

This time, Butler has to be cleaned up completely, and more than that, Mr. Chairman, this time the focus must not merely remain on the tunnel itself. The cleaners must look to the honeycomb of mine shafts, as Representative Kanjorski said earlier. They must look to the honeycomb of mine shafts and the below-ground tunnels that are obviously still poisoned.

This encompasses the entirety of Wyoming Valley, with its subterranean interconnection of mine tunnels. It is easy for us to look at the Butler tunnel, and we saw that on Saturday and we smelled it and we had to wear those astronaut-like suits to walk anywhere near that tunnel. It is easy to see that because we can see the sludge pouring from the tunnel.

What is not so easy to investigate is the threat to our air, the water supply and to the streams other than the Susquehanna River from this lode of toxins hibernating deep beneath our city. This is a threat to nearly a quarter-million people.

A future Superfund bill will have to reestablish the Butler tunnel and its ancillary deep mine toxic waste site as eligible for Federally-funded cleanup. This must include both the discharge and remedial sites.

I also urge, Mr. Chairman, inclusion in any additional Superfund legislation of citizens' cause of action provision. The ordinary person harmed or threatened with harm from a disaster such as that at hand could press for relief and cleanup in the appointed Federal agencies and/or courts. Further, legislation on Superfund should also include the requirement that major toxic waste cleanup such as that necessary with this tunnel and mine be accompanied with a detailed and extensive health study of the affected public.

To this end, the Centers for Disease Control and other health organizations should be involved in evaluating the health problems created by the waste site, the long- and short-term consequences of the site, and statistical reports on the incidence of disease as a result of these.

This necessity has been underscored through personal tragedy. Last week neighbors in our area suffered the loss of Jim Gubiati. He was a supervisor of the Jenkins Township Government, and he died of leukemia. Four other people in Jenkins Township also have

60-286 0 - 86 - 2

BEST COPY AVAILABLE

come down with leukemia in the past few years. Five such cases as are evident in Jenkins Township would be statistically relative to a population of 100,000 or more. Mr. Chairman, Jenkins Township has a population of 4,500.

We need answers. We need help. We need protection from our Government.

I was one of those who continued to question the cleanliness of Butler and the mine below us. Now many more voices are added to my voice, and we hope and pray that this time, many more Washington ears will listen and will carry out completely and swiftly the cleanup we were promised in 1980.

Thank you, Mr. Chairman.

Mr. FLORIO. Let me thank all of the witnesses for their testimony today and their assistance to us in preparing for these hearings.

Let me just ask a few questions perhaps to Mr. Graham. My understanding is that at some point you decided or someone decided that the problem was over, and the intake valves were opened. What prompted that evaluation? Were you informed by EPA officials or any other governmental officials that it was acceptable, it was safe to open the intake valves again?

Mr. GRAHAM. No, Mr. Chairman. It was based on flow factors, dilution factors, and it was strictly a guess. We were given only opinions at that time. There were no concrete answers to be found anywhere, from EPA, DER, or anyone.

Mr. FLORIO. When you say it was a guess and it was determined on dilution factors and flow factors, was that at the point of the intake valve?

Mr. GRAHAM. That is correct.

Mr. FLORIO. So if there had been a second slug that came down the river and you had opened the valves, I suppose you would have had to wait till the slug got to the valves to make these tests, the dilution tests and the flow tests?

Mr. GRAHAM. By dilution, I mean river dilution, not at the plant dilution.

Mr. FLORIO. Overall river dilution. But obviously, the dilution factor was there when you closed the valve in the first place, so that did not change. That was a constant.

Mr. GRAHAM. That is correct. And after the slug passed, we had to make a choice of either running out of water or opening with residual slick coming down the river.

Mr. FLORIO. Do you know if there was anyone monitoring at the entrance to the tunnel—the exit, rather, of the tunnel to make any determinations that another slug was not emerging from the tunnel?

Mr. GRAHAM. Yes. They were on site.

Mr. FLORIO. Did anyone convey to you that it was acceptable for you to open——

Mr. GRAHAM. No one would commit themselves to saying to open it. No, we did not get that type of commitment.

Mr. FLORIO. So it was a guess in which you had to balance the potential problem and the potential problem flowing from running out of water.

Mr. GRAHAM. Yes, sir.

BEST COPY AVAILABLE

Mr. FLORIO. Let me ask one or two more questions. I am interested in the point that Congressman Kanjorski raised because a lot has been talked about the water aspect, and it certainly is very important, the flow control, but I am equally concerned about the bore holes.

I was there in 1980. I saw the site where most of the pollution took place, behind the garage, where people apparently came from all over the northeastern portion of the country and dumped into a particular bore hole toxic waste as a disposal system. It is my understanding that people literally have gone to jail as a result of that, and that is commendable, but there is a whole network of bore holes in this area.

It is represented to me that some of those bore holes are used, perhaps even illegally, as septic tank systems, and therefore, if they flow down, fumes can flow up. I suppose my question is to whomever wants to answer it.

If there are these bore holes that were there at that point, have these bore holes been capped before EPA indicated this was safe and removed itself from this area? Or do the bore holes still exist?

Mr. COSGROVE. Mr. Chairman, I think it would be safe to say—anyone from the area would verify this—that there are literally uncountable numbers of bore holes in the greater Pittston and the entire Wyoming area. It had been almost a matter of course for individuals building new homes, businesses in the onslaught of modern plumbing to drill a bore hole rather than connect to some sewage system. In fact, in most of the municipalities, sewage systems were nonexistent. The only place for waste to go from the home or from businesses was into the mine.

Mr. FLORIO. At one point there were representations made to us earlier that hydrogen cyanide, which is, of course, what one uses in a gas chamber when you are going to execute people, was detected at miniscule levels but, nevertheless, was detected. Is anyone doing anything in terms of evaluating air emissions out of these bore holes?

Mr. COSGROVE. On Saturday I asked that same question at the site, and apparently there has been no testing of air quality since 1980, which says to me that with the onslaught of a new waste problem, which I believe is probably an old and continuing waste problem, we do not know what is being emitted into the air of the greater Pittston and Wyoming Valley area.

Mr. FLORIO. My understanding, and we will ask the next panel of witnesses, but I would like to get your thoughts if you have any awareness of this, is that field staff from some of the agencies examined samples from several bore holes a few days after this most recent spill, and apparently one of the bore holes that they examined contained a 4-inch deep pool of concentrated waste, and a geologist on the site estimates that the pool holds 70,000 to 100,000 gallons of waste and that this potentially could be one of the mother lode sources of the problem. It certainly was never cleaned up.

Have you any awareness of these revelations?

Mr. COSGROVE. With all due respect to the State agency, the DER representative today, and with EPA and anyone else who have conducted these bore hole studies, which—just briefly—indicated during the first problem the agencies went around to various sites

BEST COPY AVAILABLE

in the greater Pittston area, drilled holes to determine whether there were any more toxins in the mines.

As you mentioned, they have discovered what they hope is the mother lode, but I would say with due respect that is almost like the President's star wars plan, trying to shoot things out of vast infinity. To try to find by indiscriminate drilling is, I think, an impossibility.

There were mine maps that were made available to the agencies that were ancient mine maps that were developed in the past 50 years or so, and I think that if you speak to the old-time miners, the people who spent their days and worked those mines, they will tell you that those mine maps are virtually irrelevant. If the State or whoever wanted a mine map, they got a mine map. The miners were told by the mine owners: you dig until you hit rock. So there is almost an inconsistency, and I certainly do not know this from my own inspection. These are statements that are made by people who were in the mines.

So it seems that it might be almost impossible to just drill into a bore hole and try to find a pool of toxic waste. I think we are talking about, as Representative Kanjorski mentioned, thousands of miles of mine shafts and mine caves in this area. They are virtually interconnected, and I would suspect probably all are somewhat contaminated with these toxins.

Mr. FLORIO. No one is going to say this is a simple problem. It is a very complicated problem. But it seems to me the key problem is it is clear that it was not cleaned up, it is clear the problem is still there, and if one is going to put forward a remedial plan, there are probably three components of it.

One, of course, is capping the bore holes. Another would be some sort of a monitoring system, some sort of filtration and cleanup system at the end of a tunnel, and then if you can discover mother lodes, if there are more, some sort of a system whereby you filter out, extract the mother lode contaminants so as to minimize the work that will have to be done at the entrance of the tunnel which goes into the Susquehanna.

I am not going to prejudge what it is that the remedial plan should undertake. I think more appropriately we are saying that the remedial plan process should have been continued in this instance and that whatever combination of actions would be required should have been undertaken, and there is no excuse for maintaining this as safe and clean and then walking away.

Mr. COSGROVE. One last point. I think if an attempt is made to cap bore holes, it may be a Herculean task. It would take virtual house-to-house inspection. There is a bore hole in every neighborhood, no question, at least. Bore holes were drilled indiscriminately. Anything and everything has been poured and is still being poured into the mines.

Most situations, I would assume, are from household waste and household discharge. We do not know about businesses and we do not know how many other people like those who were convicted are illegal entrepreneurs benefiting financially because of it.

Mr. FLORIO. Is there any sense that there is someone out monitoring such as law enforcement authorities? We are working under the assumption that a fixed universe of waste is there, and the pre-

BEST COPY AVAILABLE

sumption being that it is not being added to since the 1979-80 discovery. Is that assumption a correct one do we think?

Mr. COSGROVE. I would say it is not correct. I certainly do not have hard evidence to present and I wouldn't know, but I think the task that would befall DER would be almost impossible given their budget. I don't see how they could enforce or how any State official or law enforcement agent could enforce the laws that were employed to convict the individuals in the last spill. It seems that that would be impossible. It would take an increase in the budget from the Federal and, I believe, the State levels.

Mr. FLORIO. We thank the witnesses, and at this point I yield to the gentleman from New York.

Mr. SLATTERY. Would the gentleman yield for just a second? I am not familiar, frankly, with what you are talking about. I know what a bore hole is, but can you describe this? How big is it? How deep is it?

Mr. COSGROVE. A bore hole is as deep as it needs to be. It is drilled from the site, whether it is a home, whether it is a business, whatever. It is drilled to the first available void under the surface. Sometimes——

Mr. SLATTERY. These holes were dug for what purpose?

Mr. COSGROVE. Dumping of sewage, dumping of waste.

Mr. SLATTERY. So the people in Pennsylvania dug the bore holes like we dig a well out in my part of the world.

Mr. COSGROVE. Exactly, Mr. Slattery.

Mr. SLATTERY. And they would just dump their waste down in the mine shafts?

Mr. COSGROVE. It would connect the household sewage systems to the bore hole. That was standard. That is a standard course of action.

Mr. SLATTERY. That is amazing.

Ms. WHITE. The ground is heavily bedrock. There is a lot of bedrock. So these were substitutes for connection to, at that time, nonexistent municipal sewage systems, or a substitute for digging an on-lot septic tank system, which was not possible because of the rock.

Mr. SLATTERY. How is that regulated today by your local and State governments?

Mr. KANJORSKI. Would the gentleman yield to me?

Mr. SLATTERY. I would be happy to yield.

Mr. KANJORSKI. In that area, prior to being elected to Congress, I am known as the expert on sewers because that was a major part of my legal practice. The entire Wyoming Valley is made of approximately 24 communities. Now all have very stringent controls on disposal of home waste and business waste. They are all interrelated to treatment plants under the Wyoming Valley Sanitary and then the Lower Lackawanna Sewer Authority. That is all under containment.

The problem of the disposal of human waste has been a problem in these voids, but that is not the problem we are faced with here today. That is biodegradable, even though it is a poor treatment. We do not have to worry about; nature takes care of it.

Our basic problem here is the disposal of chemical pollutants that do not break down, never will break down, and when we talk

BEST COPY AVAILABLE

to the experts in the area, such as chemists at some of the leading colleges, they estimate that tens of millions of gallons will remain in there and not even be flushed out for our lifetimes, and then some that will never break down.

Mr. SLATTERY. Are there homes in this area that are using these bore holes for sewage disposal today?

Mr. COSGROVE. There are some communities that have not developed sewage plants, that Representative Kanjorski represents. They have not built and installed the proper sewage systems that would connect to the treatment facilities.

There are those that I would believe, without knowing specifics, without knowing facts—I think it would be safe to say that there are still homes even in those areas who would rather not connect to and have not had law enforcement agencies force them to connect to sewers.

Mr. SLATTERY. They don't want to pay the sewage fee?

Mr. COSGROVE. Exactly. That has been the case. We're talking about a long-standing tradition. I think it has been part of American society, that if we throw it away, it is gone, and I think that has been part of the problem here. If you dump it, it's gone. No one expected anything to come flushing out of the tunnels.

Mr. SLATTERY. If someone builds a home in this area today, must they obtain some kind of a hook-up permit to get a building permit for their individual residences or their businesses?

Mr. COSGROVE. I cannot speak for every municipality as to the requirements, but, yes, the bottom line is, they must hook up to——

Mr. SLATTERY. Do you have septic tanks?

Mr. COSGROVE. Septic systems are acceptable.

Mr. KANJORSKI. Approved plans by DER or attachment to a regulated center.

And, Mr. Chairman, you asked, is it correct to make the assumption that this is not continuing?

That would be probably the most Tinkerbellish type of assumption we could ever make. I would suggest to you that anyone in that area that would not clearly testify of their own knowledge that illegal dumping is going on in the bore holes, it is almost an entrepreneurial business.

Many people who are not located in the area find it very convenient to charge perhaps $50 to remove a barrel of very toxic waste that would normally cost a very large corporation some several thousand dollars to detoxify. They pick it up, bring it up into this area, and put it into a bore hole, and it is going on on a day to day basis.

Mr. FLORIO. The gentleman from New York.

Mr. LENT. I think this—I'm trying to get the gist of what this hearing is all about, and absent any kind of chronology, I am finding it a little bit difficult, and perhaps some others are, too, to piece this whole thing together.

But one thing that comes through loud and clear is that the practice of continually dumping waste into these bore holes—I guess there are hundreds of them or thousands of them in this area—is continuing even as we speak here today; is that correct?

BEST COPY AVAILABLE

And we are talking not just about human sewage, we're also talking about toxic waste?

Mr. COSGROVE. I wish that I had specific answers to say that I know, at a particular site, that there is illegal dumping when I presented that to District Attorney Gillespie in a second criminal action to be taken. Unfortunately, I can't do that.

Mr. LENT. How many criminal actions have been taken in this area with respect to illegal dumping, that you are aware of?

Mr. COSGROVE. Related to the Butler tunnel, there was one major criminal incident.

Mr. LENT. Despite the fact that there are some 10 million gallons, one of the witnesses said, of toxics that have been dumped in there?

Ms. WHITE. I would like to comment a little bit more on our concern over the existence of the bore holes.

Mr. LENT. We have heard the concerns, we have heard the facts, and that may be why some of us are a little bit confused. I know what your concerns are. I'm very sympathetic. You are living in an area that has got this toxic waste pit. I have a couple of them in my district. I know exactly what the attitude is.

What I am really trying to understand here is just who is responsible. Everybody comes to Washington thinking that there is manna here and that the Superfund is manna, and that there they can keep on dumping and polluting, and Superfund can be dipped into and used, and that other people's money is going to clean up your mess.

I think there is a little bit of local responsibility here, and there certainly is some State responsibility here. There ought to be laws on the books of the State of Pennsylvania, and I am sure that there are, prohibiting this kind of wanton dumping of illegal waste, and the enforcement really lies with the responsibility of the State and local officials.

And what I am trying to find out is, what has happened all these years, that this has not been done?

Mr. COSGROVE. Mr. Lent, I believe it is virtually impossible, without tremendous additional funding at, again, the State and and Federal levels to determine where the bore holes are. It would be almost a neighborhood to neighborhood——

Mr. LENT. How many bore holes would you say exist around the Butler tunnel site? Just give me your best seat-of-the-pants estimate.

Mr. COSGROVE. Thousands.

Mr. LENT. And how many of them are on private property?

Mr. COSGROVE. Most of them are on private property.

Mr. LENT. Let me ask you this: How would the residents of Pittston and environs feel about having EPA agents come in, and start capping the bore holes? Would they take to that kindly? Is that even legal under the laws of Pennsylvania?

Mr. COSGROVE. I'm not sure the Federal Constitution would allow such a thing. I don't know. I think DER——

Mr. LENT. Would they take kindly to the Federal officials coming on private property, capping bore holes that they have been using for dumping their waste in for generations, a practice that is time-honored, that takes place in the Pittston area?

Mr. COSGROVE. I don't think it is time-honored.

BEST COPY AVAILABLE

Mr. LENT. You said it was a long-standing tradition.

Mr. COSGROVE. I don't know if I used the word tradition. It was a long-standing practice. This was the way people got rid of their household sewage.

I do not believe that any Federal official is going to be treated too kindly in the Pittston area regarding toxic waste, given the problems that we have had in the past—the deception that at least is perceived on the part of the people in Pittston.

Mr. LENT. Let me ask you this: When we had the first spill of waste at the Butler tunnel site, it was before the Superfund was even enacted in 1981.

Mr. COSGROVE. That's right.

Mr. LENT. I understand that the State, after that incident, installed early-warning detection devices at the Butler tunnel site.

Can you tell us if those early-warning detection systems are still in place and monitored by the State of Pennsylvania?

Mr. COSGROVE. I would defer to the representatives of DER, which I believe are testing on the next panel. As I understand it, it was in 1984 sometime that the detection system either malfunctioned and was not replaced, or was removed entirely, voluntarily. I don't know what the true facts are on that.

Mr. LENT. I understand that the Pennsylvania State Department of Environmental Resources decided to abandon the early-warning detection system that EPA installed at the Butler tunnel site sometime last year. Were you aware of that decision?

Mr. COSGROVE. I was aware of the same facts. Again, I would defer——

Mr. FLORIO. Since you are special counsel for toxic waste in the city of Pittston, you should probably know whether that was the case.

Mr. COSGROVE. Again, we are having the hearing, I presume, to discuss this and let the DER officials present their testimony. I will agree, that was the assumption that I was under, that it had been simply disconnected, but I will allow——

Mr. LENT. Did you, as special counsel in charge of toxic waste for Pittston, complain in writing to the State agency about their action of withdrawing these early-warning devices from the tunnel?

Mr. COSGROVE. Mr. Lent, I was a young lawyer. I was not in that position at that time.

Mr. LENT. Do you think that the continued use of the early-warning detection devices could have significantly reduced the spread of the second oil spill, the most recent one?

Mr. COSGROVE. There was testimony today that the spill was continuing for approximately 2 hours or more before any booms were put in place—2 days before any booms were put in place, so I imagine there would have been some protection, additional protection, and I would think that Mr. Graham would have even greater concerns for the water system.

I think the people in Greater Pittston are more concerned with the toxics still underground and, as Mr. Florio mentioned, what is coming back through the bore holes and other things.

Mr. LENT. The 10-million gallons more or less.

Mr. COSGROVE. And what sorts of toxic things are being emitted into the air of Greater Pittston. I think the water supply itself, as

BEST COPY AVAILABLE

much as it is a concern to the Wyoming Valley. I certainly have great sympathy for the folks in Danville who are subjected to drinking this supply. But I think that the people in Greater Pittston and the Wyoming Valley are more concerned with what is coming back into the air.

Mr. LENT. I would like to ask Dr. Cole one question about his testimony. I guess it is on the third page, in the middle.

You indicate that EPA continues to rely on offsite disposal and onsite containment. These methods have not proven effective in the long term.

If you do not contain the waste onsite or dispose of it offsite, what's left? What other means of solving the problem are there?

Mr. COLE. The Office of Technology Assessment, for example, did a rather lengthy report where they identified about 20 conventional technologies and perhaps another 30 innovative technologies which can be used to detoxify, neutralize, immobilize the wastes.

Another thing——

Mr. LENT. Would you do it onsite? You would detoxify it in the mine shafts?

Mr. COLE. In the particular case of Butler, I do not want to prejudge what a proper remedial investigation and feasibility study would show. These studies have never been completed for the site——

Mr. LENT. That's right.

Mr. COLE. And by the way, that possibility was precluded by EPA's not including this site in the originally proposed NPL list.

Mr. LENT. Well, you heard me say that earlier on, that this site was never on the NPL list of EPA. So it seems to me that we have a terrible mistake here, and I'm not quite sure whether it is a cleanup error or it is a listing error, but it certainly is an error.

But the fact of the matter is, as I'm trying to piece this thing together, this site, which somehow turned up on the EPA list of six sites cleaned up—in 5 years of Superfund's existence, was never on the original NPL list. It is still not on the NPL list. No engineering studies, and no RI/FS's have been conducted on the site. What happened back in 1979 was before we actually had the Superfund in place.

Mr. COLE. Frankly, I think a very calculated decision was made that the expense to clean up that tunnel was too great, and that it was easy to put a situation out of mind where you did not see discharge coming out of the tunnel every day, and where the concentrations in the river water had vanished the EPA simply decided that their work was over at the site.

Let me answer your first question. I think that EPA should first identify the sources of contamination in the mine be removed and second, remove those qualities which can be removed.

Given, however, that it may not be possible to locate, to locate all of those sources, and given the testimony that we have heard and the evidence that there may be tens of millions of gallons of waste remaining EPA should consider the possibility of diverting overflows from the tunnel to a holding situation where the "ooze" might be separated and treated or looked at.

I understand—and we should ask Mr. Massey about this—that such a solution was considered, but was considered a very high-

BEST COPY AVAILABLE

priced ticket. I think we ought to get on the record a clarification on that issue.

The point is, we should not throw up our hands at the site and say that nothing can be done because the situation is very complex.

Mr. LENT. If a permanent remedy is not readily achievable, we have to then look at some interim remedy. One of the remedies that is suggested in one of the bills before the Congress would be containment in an above-ground structure, which is similar to what you just indicated as a possible alternate remedy; is that correct?

Mr. COLE. Yes. But I think there is also the possibility——

Mr. LENT. Do you think it is possible at this site to have an above-ground containment structure?

Mr. COLE. Right at the site, it may not be possible, but I understand that there was a plan that was looked at by EPA—and you can ask Mr. Massey about this——

Mr. LENT. I will.

Mr. COLE. There was some kind of interim solution proposed. It may even have included treatment, not just collecting the stuff, but when you have aqueous solutions of these organic chemicals and oils, those kinds of things are treatable.

Mr. LENT. How large of a container would you have to build to hold 8 million gallons of waste?

Mr. COLE. That's very large.

Mr. LENT. It would have to be humongous.

Mr. KANJORSKI. Would the gentleman yield?

Mr. LENT. Yes.

Mr. KANJORSKI. So you get some idea, 1 day out of this tunnel, 20 million gallons flow, and they just contain portions of the waste. You're talking——

Mr. LENT. Just so that we spread some of the blame a little on this site—there is enough of it to go around—it would appear that the State, in addition to having stopped using an early-warning system at the site, which may not have really helped much when Hurricane Gloria hit, also concurred with the EPA's decision back in 1982 not to put this site on the national priorities list for the usual cleanup.

Is that your understanding, Dr. Cole, of what happened here.

Mr. COLE. I know that in December 1982, a letter was written from then-administrator of region III, Peter Bibko, to Rita Lavelle, saying that it should be delisted. What he meant was——

Mr. LENT. It could never be delisted if it was never on the list.

Mr. COLE. That was the language he used. What he meant to say in the letter, I think, is that it should not be added to the first proposed list of NPL sites.

Let me just explain this. There was an interim list back in 1980, 1981, of about 150 sites. That was not a formal list.

The next step was to propose those 150 or so sites to the NPL. And when that decision was made, the administrator from region III argued successfully that the Butler Tunnel should not be added to the proposed list.

Mr. LENT. Let me get this off my chest, because I think the chairman is getting ready to hit the gavel.

BEST COPY AVAILABLE

I have a letter here which I will ask unanimous consent to be placed in the record, dated February 8 from the Commonwealth of Pennsylvania, department of environmental resources, signed by Michael Steiner, compliance section, division of operations, bureau of solid waste management, addressed to the Chief of the Superfund/RCRA Compliance Section, to Mr. Walter Lee, in which they say: "This agency's analysis of the present situation at Butler Tunnel"—and incidentally, this is dated 1982—quote, "is in basic agreement with that set forth in the subject document," meaning an EPA document.

"Significantly (1) emergency actions already undertaken have resulted in significant abatement of pollution from the site; (2) current discharge of contaminants from this site is at an acceptable level and is being constantly monitored; (3) because of the above, no remedial action is warranted at present."

[The letter referred to follows:]

BEST COPY AVAILABLE

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL RESOURCES

P.O. Box 2063
Harrisburg, Pennsylvania 17120

(717)787-7383

February 8, 1982

Mr. Walter Lee, Chief
Superfund/RCRA Compliance Section
U.S. Environmental Protection Agency
Region III
6th and Walnut Streets
Philadelphia, Pennsylvania 19106

Re: Administrative Package - Butler Tunnel (PA-202)

Dear Walter:

Jim Hagan, formerly of your staff, recently forwarded to this office a copy of the above referenced document dated December 3, 1981, for review and comment by DER. This agency's analysis of the present situation at Butler Tunnel is in basic agreement with that set forth in the subject document, specifically: 1) emergency actions already undertaken have resulted in significant abatement of pollution from this site; 2) current discharge of contaminants from this site is at an acceptable level and is being continually monitored; 3) because of the above, no remedial action is warranted at present.

Our legal staff, however, has the following comments in regard to "Part III, Enforcement Status":

1. Paragraph 4 should either be deleted in its entirety or confined to the last two sentences. The reasons why the case went to the Multi-County Investigating Grand Jury add nothing to the report and were more complicated and varied than the single reason given. We do not believe it is particularly wise or in any degree necessary to suggest that the Commonwealth's initial investigatory efforts did not yield substantial, probative information, particularly since it was on the basis of information gathered prior to the Grand Jury hearings that a search warrant was obtained to search the Edgewater Terminal facility of Hudson Oil. Challenges to the sufficiency of the Commonwealth's evidence to support the issuance of that warrant are still pending.

2. Fifth paragraph - Russell Mahler is spelled with an "h" not an "i".

3. Sixth paragraph - "preama faca" should read "prima facie".

4. Twelfth paragraph - The out of state defendant's appeal from the order of extradition by the New Jersey trial court have been exhausted, the defendents were extradited, appeared at a preliminary hearing before Magistrate Verrespy and were all bound over for criminal trial before the Luzerne County Court of Common Pleas.

BEST COPY AVAILABLE

5. Thirteenth paragraph - Reference is made to an agreement regarding the respective legal positions of EPA and the Commonwealth which was part of Attachment 5. Our legal staff is not aware of any such agreement, and there was no such attachment with the copy of the administrative package received by us. We would greatly appreciate receiving a copy to complete our review and comments.

From an environmental viewpoint, I should reiterate the following DER position on this site. For the reasons cited in the first paragraph above, it appears that no remedial action is needed at the present time. However, due to the complex and dynamic nature of the contaminated substrate and ground waters, it is not impossible that future discharges may occur at this site which may require appropriate emergency/remedial responses on the part of EPA/DER. Therefore, it would not be prudent to take any action at this time which would preclude future responses or make them more difficult to initiate/implement.

If you have any questions in regard to this matter, please do not hesitate to contact me.

Sincerely,

MICHAEL R. STEINER
Compliance Section
Division of Operations
Bureau of Solid Waste Management

BEST COPY AVAILABLE

Mr. LENT. And then they reiterate the same recommendation later on. So I think the State and their green eyeshade people at the environmental level agreed with whoever was doing the job at the Federal level, that this site, for whatever reason, should not be put on the national priorities list.

Is that your understanding?

Mr. COLE. I would agree the blame should be spread. I would also say that the U.S. Environmental Protection Agency has the ultimate and fundamental responsibility in this type of matter.

Mr. LENT. If I have the time, I would be happy to yield to the gentleman——

Mr. FLORIO. I was going to recognize the gentleman from Louisiana next.

Mr. TAUZIN. I thank the Chairman.

As the gentleman from New York, I was going to call the same letter to his attention, that it was, in fact, a decision of the Pennsylvania Department of Environmental Resources that recommended no remedial action. In fact, it goes on further to say that "things ought to be kept open for appropriate emergency remedial action in the future." That's the only thing they recommended to the Federal authorities.

Let me point out something perhaps more basic in this particular instance.

I think there are two things that I have learned from reading the information supplied to this committee and from the testimony already established here. One is that, indeed, after $1.6 billion, EPA really did not clean up six sites. It may have cleaned up only five, but it certainly did not clean up this one. And so that is further evidence, in my mind, that the 5-year program of Superfund has been a colossal failure and that the programmatic aspects of the current law have not served us well, and that it further reinforces my own opinion that changes in the programmatic aspects that we have recommended out of this committee have, indeed, been warranted.

We do not want another 5 years of that kind of failure.

But there is another thing I have learned. The gentleman from New York is correct. According to the EPA study of this site entitled "The Pittston Study," and I quote on case histories, page 251, quote:

> It is common practice in the area, although technically illegal, to drill a bore hole into an abandoned mine void for the purpose of sewage disposal. Residential, industrial, and commercial buildings have bore holes for this purpose. Even schools and local courthouses are known to have bore holes.

Here we have a place in America where the governmental authorities, the schools and the courthouses, still have bore holes that have yet to be closed to illegal dumping, whether it is sewage discharge or whatever might be dumped there.

And here we have a case in point in the December letter quoted earlier sent to the Superfund director then, that it was a case of illegal dumping that created the problem at Butler Tunnel.

We have testimony today that illegal dumping continues, that it goes on, not only from households, but indeed that illegal dumping from entrepreneurial activities, people who think they can make

BEST COPY AVAILABLE

some money by allowing someone to dump illegal chemical wastes or whatever in that site, is still going on.

Now it occurs in me in learning these facts that it would do little good for this Government, collecting taxes from a national source, to go out and clean up this site in fact more chemical wastes, more sewage is being poured into it from thousands of illegal bore holes daily.

It occurs to me that the next storm that comes around to dump some more rain into the area 5 years hence, following an EPA cleanup, will produce the same kind of problems you have today if more waste is being dumped into those sites. Not only sewage, but illegal chemical wastes.

Now I want to know just as the gentleman from New York wanted to know a little bit more about what the State of Pennsylvania is doing to indeed prevent additional waste from occurring at this site, if Pennsylvania did everything it could to stop more waste from coming in. If I were sure that no more waste was coming in, the practice of illegal dumping was in fact being contained, then indeed a cleanup would be justified, placing this site on the list and spending national funds for that purpose would make sense. But if the State of Pennsylvania is not doing its job of stopping the courthouses and the schools from dumping into this site, much less the residences and the commercial establishments and industrial establishments, then I suggest that it will be a never-ending cleanup site, and we will never have enough money for it.

I want to know a little bit more about Pennsylvania. You can help me. Does Pennsylvania have a bill of lading enforcement mechanism for identifying wastes produced, transported, and disposed of in the State of Pennsylvania?

Ms. WHITE. That is a good question, and I am not the person to answer it, but you have again raised my concern about a major point, and that is that these bore holes are two-way streets. I believe Mr. Cosgrove mentioned earlier—in other words, when we say that we are concerned that bore holes exist in existing public buildings, it is not a question of additional sewage going down those.

Mr. TAUZIN. But the vapors are rising in schoolhouses and courthouses.

Ms. WHITE. Exactly. In the State grand jury investigation of the Scatena, the dumping by the Scatena family at that particular bore hole, my understanding is that expert evidence was offered in the grand jury investigation that at the height of the initial spill in 1979, the fumes were so bad that if ignition occurred, the gases might act as a fuse that could go back and ignite the so-called mother lode. An underground explosion was possible, with possible surface damage. Cyanide salts combining with the acid mine water create hydrogen cyanide gas, and with these bore holes simply existing and not being capped and no proper traps installed, there is the constant possibility of hydrogen cyanide gas coming up through people's toilet facilities and therefore into their homes and buildings.

Mr. TAUZIN. I agree with you, I would be as concerned as you are about the situation, particularly if I knew that schools had those kinds of bore holes and may be subject to that kind of vapor rising

BEST COPY AVAILABLE

into the system that the children are breathing. But just common sense tells me the Butler Tunnel problem involves several things:

One, it involves a system of thousands of bore holes that somebody ought to cap, somebody ought to close, somebody ought to say no more dumping in these bore holes.

Second, it involves a case of illegal use of these bore holes, and it seems to me that the State would be well to indeed enforce some sort of bill of lading procedure—we have one in Louisiana, we started in 1978, that has been a model for the rest of the country. We have as much problem, believe me, as Pennsylvania has, where the State police are now enforcing the bill of lading proceeding, tracking trucks that enter the State, tracking trucks from the source of production of chemical wastes through a bill of lading procedure, tracking the wastes to the eventual site of disposition.

In fact, to contain the illegality of these kinds of dumpings such as the Scatena family was involved in, it certainly involves a permanent cleanup, if we can ever stop the recurring sources of pollution into that site.

Now let me get back to it. You tell me it would be impossible to go find 1,000 bore holes. It seems to me that is the first job. It seems to me that the first job is for the State of Pennsylvania—indeed, if it takes a neighborhood house-to-house reporting system, something, to go through the communities and determine where these bore holes are, and to stop them where you can. Why isn't that being done?

Mr. COSGROVE. Mr. Tauzin, I believe that there may be some misperceptions involved here. I think that the reason we would urge that kind of capping of bore holes is again, as Dixie presented, to prevent the escape of the toxic fumes into homes, schools or anything else.

Mr. TAUZIN. You are not worried about additional toxic materials being dumped in?

Mr. COSGROVE. With the development of the sewage systems over the past so many years when he was in private law practice, and the like, that is not as much a problem, but you cannot stop someone from going to some remote spot, puncturing the ground, drilling down until they find an open space and pouring. That is difficult to stop, and it would take greater enforcement.

Mr. TAUZIN. It can stop, that's the point. You can't stop bank robbers, but you certainly can enforce better. My point to you is——

Mr. COSGROVE. The problem is not with the homes, the courthouses and the schools. They are on sewage systems and treatment facilities.

Mr. TAUZIN. Not according to EPA's report. It seems it is still going on, and you admitted that today. The point I want to make is if you have in fact potential for additional waste to be disposed of in this site, and if that problem is not contained properly, then we are never going to clean this site up, no matter if you put it on the Superfund list and spend millions of dollars cleaning up the mother lode, that if a new mother lode is created, we will have additional expense and additional contamination, and the potential for additional damage to health and environment.

BEST COPY AVAILABLE

My point again is does Pennsylvania—has it undertaken sufficiently in your mind an operation to track through bill of lading procedures the hazardous waste that is produced and/or transported through the State of Pennsylvania?

Mr. COSGROVE. It has not to my knowledge adequately provided for that kind of provision. And again I think that is what we have to focus it on, the developers of the toxic wastes. The focus on the report on the individual homes that may have remaining archaic bore holes on the property is not the problem, unless those people engage in the same kind of activities that led to the convictions in the past few years.

Mr. TAUZIN. But again the people who engage in that activity that led to the conviction that was indeed the source of the material used a bore hole or created one that is a problem. That is one that needs to be monitored. But second, they were engaged in a profitmaking business to illegally take somebody's waste and dump it.

Now let me——

Mr. COSGROVE. I would say that if that is going on now, there are very few who are engaging in it. The people in Wyoming Valley are not that kind of people, if I may say so. All they simply want is their air and their water supply cleaned——

Mr. TAUZIN. I suspect——

Mr. COSGROVE. And the sewage treatment facilities that are developed.

Mr. TAUZIN. I suspect it is one of the nicest places on Earth and some of the nicest people on Earth.

Mr. COSGROVE. Just as the people in Louisiana.

Mr. TAUZIN. Yes. And there are people all over the country who are greedy enough to make money off of taking wastes from somebody who since they are going to be transporting it a legally authorized site will save a lot of their costs by going and dumping it illegally somewhere, making an extra profit. It occurs all over the country, and it occurs to me as we discussed the problem of Butler Tunnel that, one, we have a confluence of a number of problems.

One, an act of God, a hurricane dumped a lot of water into a site, and caused a discharge again, as occurred in 1979, because the site was never permanently cleaned, and that is a shame. And it is equally a shame that EPA dared tell us that it was permanently cleaned, that is one of the sites they cleaned up.

It also is evidence of a failed program, in my mind.

But then second, we have the condition of bore holes that serve as intakes for more waste at any time from anybody who wants to illegally dump.

Mr. COSGROVE. Or create a new bore hole.

Mr. TAUZIN. And third, we have the condition and continuing environmental problem cited just now in testimony of the site becoming a site for vapor contamination from updrafts from the bore holes into schools, homes, communities, courthouses. It seems to me that is a problem you can only cure by capping the holes.

And last, it seems to me we have some failure of enforcement in terms of preventing additional discharges into those systems. Now that is something that this State and we on the Federal level need to work out together. But simply going in with Federal money and

BEST COPY AVAILABLE

cleaning up this site without curing the other problems it seems to me is only half of a solution. And second, we will never prevent the acts of God. Every now and then hurricanes are going to hit Louisiana—they are not going to hit Louisiana, they will come up the coast and bother somebody else.

Mr. FLORIO. To place some perspective, there is not much the gentleman said that one could object to. Certainly this is unfortunate. It is causing a problem. I think it has to be kept in perspective. Pennsylvania does have the manifest system under RCRA, and there is tracking. Whether it is done as diligentiy as it could be is open to question, and it is open to question in every State that has a manifest system in tracking toxic wastes prospectively from cradle to grave, so to speak.

Likewise, there are strong enforcement laws against illegal dumpers at the State level and certainly at the Federal level. The gentleman assisted in strengthening the law, we're talking about 15 year jail terms, people have literally gone to jail.

Likewise, there are some unique situations here. The bore hole system is not something you find all over the country. But the problem is not the bore hole that exists in the school, the bore hole that is in the home. The problem documented by EPA and the on-site coordinators is the problem that has resulted in the past from commercial, regionwide activities at a particular site caused this problem that we are now living with.

The people, fortunately enough, have gone to jail. I don't have any difficulty with the gentleman as to what he said. I know the gentleman does not mean to say that because this is complicated, that because there are multiple levels of government involved, that that should detract from our effort to establish a process so as to be able to evaluate what happened there, to make sure we clean up the problem, even though there are complicated problems that make this situation unique.

I am just trying to keep in perspective the cause of the problem, and that no one should say—and I know the gentleman is not saying—that because there is a potential for even capping all of the bore holes and somebody digging a new one, that that somehow should mean a retreat from the paramount Federal responsibility which is under Superfund, which is under RCRA, to make sure that there is no continued illegal dumping, and that the dumping that is there now should in fact be cleaned up, if we perceive that this is an imminent and substantial hazard to people's health, as it is apparently agreed to.

The gentleman has made a good point. I just think it is needed to be kept in perspective, so as not to allow anyone wrongfully to arrive at the conclusion that because this is so complicated, because this is somewhat unique, that means that we should not be dealing with it under the Superfund authority as some of us think the Superfund authority should be implemented.

Mr. TAUZIN. I thank the gentleman for his contribution, but there is a significant difference between this Butler Tunnel situation and the normal pit, pond, or lagoon that EPA goes and cleans up. When the normal remedial action at a pit, pond, or lagoon occurs, a fence is put up, some sort of guard perimeter is estab-

BEST COPY AVAILABLE

lished, some system by which you prevent the introduction of any more material into the site.

My concern here is that we could spend millions of dollars on this site, and that until the guard perimeter is established, until the bore holes are capped, until more stringent State and Federal enforcement provisions are in place there, that we have a never-ending problem at Butler Tunnel.

Let me point out to the gentleman that it was not just schools, homes, and courthouses that were cited for having bore holes that are continual sources of introduction and where vapor rises, but industrial and commercial buildings were cited as presently having continuously bore holes that are being used for the introduction of material.

Now it may be sewage material, but in an industrial plant it may indeed be chemicals. Who is to know? The point I am making is that unlike the normal pit, pond, or lagoon, Butler Tunnel poses a particular problem in terms of long-term remedial action.

The problem is that the State and the Federal Government simply have to cooperate, I think, in killing off the source of the pollution before we spend too much money on cleaning it up. Otherwise, we will simply be cleaning it up every 5 years. Now that is something I think we need to avoid. If we are going to have permanent solutions in Superfund, the solutions have to include the perimeter protection on the site that prevents dumpers from adding new material to the site. That seems to be a particularly difficult problem in Butler Tunnel.

Mr. FLORIO. Just to highlight the fact that perhaps under certain circumstances this is not that unique. It is unique because we are talking about bore holes, but I can take you to my district where we are talking about a landfill site that is in the process of being remedied under some definitions that in fact provides for slurry walls around it. It is a landfill. There is nothing to—and it is leaking, by the way, even though they spent $4 million. There is nothing to preclude an illegal dumper from going to that landfill site, penetrating the piece of plastic that is on top of the landfill, and dumping more things into it.

I am suggesting that, strangely enough, this is not so unique in terms of opting for a nonpermanent solution, and that we are always at the mercy of illegal dumpers into these types of systems.

The gentleman is correct, certainly under ideal circumstances, and even under commonsense circumstances, we should try to deal with those problems. That should not be offered—and I know the gentleman is not doing that—offered as a reason not to put moneys into permanent solutions of some of these sites.

Mr. TAUZIN. This is a good dialog. I am glad we are engaged in it. There is a significant difference between an illegal dumper breaking a fence down and puncturing a cap that has been established and whatever remedial action that may have occurred at a pit, pond, or lagoon, and a continuing situation where the holes not only exist in the fence and in the plastic, but where government officials know they exist, or government agencies in fact have them themselves—schools, and courthouses. And those entry points are still allowed to exist as an open invitation to more introduction of material.

BEST COPY AVAILABLE

There is a significant difference, Mr. Chairman. It seems to me that the first step ought to be indeed to put that cap on and to put the perimeter fence around that pit, pond, or lagoon, or Butler Tunnel in this case, and then we have some assurance that we have isolated the mother lode, isolated the waste, and we can go about the business of cleaning it up and assuring the residents downstream that they will not be bothered by it and, as importantly, that the residents who live above those bore holes will not have to live with the possibility of hydrogen cyanide seeping up into their homes or schools, one day. That is frightening to me. And the existence of those holes apparently condoned by even governmental authorities, schools and courthouses, is to me a special circumstance that you cannot equate to any other pit, pond, or lagoon, and it seems to me that that ought to be recognized in this case, it ought to be the focus of the immediate attention.

And then I will insist, I promise you to the State of Pennsylvania, my colleague from Pennsylvania, and the chairman, everybody here concerned, that I will do everything I can to help you make sure EPA does its job at that site, as it should at all of the sites. But let us begin, it seems, by at least making sure that the holes that invite introduction of more material are found and capped and prevented.

I think that ought to be a first step. I thank the chairman for his great indulgence.

Mr. FLORIO. We are pleased as a courtesy to allow our colleague from Pennsylvania to sit with the panel, and we recognize the gentleman from Pennsylvania.

Mr. KANJORSKI. I am glad that the gentleman from Louisiana raised the question. To my knowledge, there is no courthouse in that 5-mile area, so whoever wrote the letter has found the county and the courthouse existing in an area that does not have that type of jurisdiction.

I would suspect that that information is about as accurate as most information that I have seen from EPA and DER in the State. They are great writers. They are great concluders, but they are really not too particular in their investigative talents.

I do not know of any school that would use that for the purposes of disposal of waste. I would be shocked to know. There would be no legitimate reason, to my knowledge, why they would do that. So I would suspect that if we actually go back to the writer of that letter and made the investigation, we will find that that was a license of the artist to try to get attention, and a poor statement at that.

Mr. TAUZIN. Would the gentleman yield there for 1 second? I would like—in fact, I would request the Chair that we do explore that. I think the gentleman makes a good point. If EPA is exaggerating here, we ought to know it. If, in fact, a school or courthouse still has a bore hole, I think the gentleman would be interested in knowing that, too.

Mr. KANJORSKI. There is only one courthouse within 10 miles of that site. It is the Luzerne County Courthouse. It is right on the Susquehanna River. How you would put a bore hole there and use it for anything, since the water would repercolate back from the Susquehanna River, I don't know.

BEST COPY AVAILABLE

Mr. TAUZIN. I think the gentleman raised a good point, and I would ask the Chair if we could not direct some inquiry to EPA.

Mr. FLORIO. Whatever letter it is that is being referred to, we would be pleased to review it and then direct the appropriate inquiries to the author of the letter.

Mr. KANJORSKI. If I may, the gentleman from Louisiana raises an excellent point, and it dovetails in with the testimony of Mr. Cosgrove. It is interesting how the mind of EPA has become extremely convoluted. The 17 communities of the Wyoming Valley that are attached to the Wyoming Valley Sewer Authority which presently has a primary treatment plant are in the process of now funding a secondary treatment plant at a cost over the next 40 years of more than $100 million.

I happen to have had the opportunity—I don't know whether I can say "the pleasure"—of serving on that board for about 10 years. I was opposed to the secondary treatment plant not because I don't want to clean up sewage or the environment of the United States, but the fact of the matter is that we were going to spend $100 million to clean up this sewage for 300 feet and pump it right back into the Susquehanna River, where we found that water to be more polluted than the water we were taking into our sanitary treatment system.

But worse than that, we were going to go to secondary level treatment when 4 of the 17 communities that are a part of that system don't even have primary collection systems.

It seems to me—and let me tell you how far EPA went in that instance, they went to the Federal Court of the United States for 4 years to require that authority to spend $100 million over the next 40 years to treat that water at the authority's collection site, the treatment plant, to secondary treatment, knowing at all times full well that four communities probably containing well over 50,000 people did not have a collection system. So obviously, their sewage was going either into the mines through bore holes or into the public streams and flowing into the Susquehanna River.

I thought the contention that instead of going to secondary treatment we should stay at first and get collection from everyone and then go to the elevation, but that is how convoluted the reasoning of EPA has become in the United States.

Let me go on to one thing, to assure the gentleman from Louisiana. There is no question in my mind that the patrolling and policing and enforcing authorities in the Commonwealth of Pennsylvania against illegal dumpers, it is pathetic, and probably throughout most of the United States it is. And that is one area that this law should apply to, and we should do everything we can to get the investigation, disclosure, whether we use rewards or what have you. We have to get people involved in the policing of our environment if we're going to do anything.

Second, I think you missed the point in what we were talking about. There are not these innocents, these chemical manufacturing plants that are hiring a substantial disposal unit to get rid of illegal waste disposal.

That is not what is happening in Pennsylvania. What is happening in Pennsylvania is some very large corporations who are "good neighbors, good community participants," not only in Pennsylvania

BEST COPY AVAILABLE

but from the surrounding States, that have a barrel of disposable material, toxic material that is extremely expensive, say, $1,000 to detoxify it or $2,000 for a 50-gallon barrel, they find a guy who will drive up in a very rickety truck, who appears to have been unemployed for a long time and up against it, and he makes the offer of disposing of that barrel of toxics for $50.

Now, there is not a president of that company, vice president, engineer, or anyone else down to the lowest sweeper that knows that this man invented a new way to legally detoxify that $2,000 barrel of toxins for $50.

They damned well know he's going to throw those barrels on his truck, and he does by the 40's and 50's, waits until the dark hour comes, drives the 50, the 100, the 250, 300 miles to northeastern Pennsylvania, and he finds either a cave-in or an area that has a bore hole, and he empties that truck and he makes quite a profit—$5,000, $10,000—for his activity.

It is illegal as hell. He is wrong. But let me tell you, it is those firms, the chemical firms that participate in this illegal traffic, that are wrong. If we had to worry only about people who are hiring legitimate and invoiced material, we would have no problem. It is because it does constitute a conspiracy that causes the problem.

Mr. TAUZIN. Would the gentleman yield?

Mr. KANJORSKI. Certainly.

Mr. TAUZIN. We faced that situation in 1978 in our State and adopted a very stringent manifest system whereby the companies, in fact, had to report to us the volumes of waste produced at the site which could be checked against a production level of the company.

Second, the companies to which they are contracted with were licensed under State law. You did not have fly-by-night in a leaky dump truck coming up.

Third, the material is, as the chairman pointed out, traced by bill of lading from point of production to point of disposition, which bill of ladings are then filed. All of that is enforced through State Police.

Time magazine, in a couple of issues ago, a few months ago, cited that particular Louisiana law and the one in California as two models for the Nation. Not only in terms of the language of the act but in enforcement.

It occurs to me that that particular system, although just as imperfect as all enforcement mechanisms are, nevertheless has gone a long way to prevent the conditions the gentleman describes. Again, I have asked a couple of times, I don't know if Pennsylvania has a system, but I would recommend something like it if, in fact, the bore holes still remain open invitations for that kind of activity.

I thank the gentleman for yielding.

Mr. LENT. I wonder if the gentleman would yield to me.

Mr. KANJORSKI. I just have several questions. And, yes, I will yield.

Mr. LENT. I was just wondering about the question of local jurisdiction and the willingness on the part of the local people to do something about this problem themselves.

BEST COPY AVAILABLE

I have been told—and I don't know this, and perhaps the gentleman can correct me if I am wrong—there was a time just a few years ago where these trucks carrying toxic wastes from all over the Northeast used to congregate on the exit ramp so much so that they were bumper to bumper, backed up the ramp leading from the highway down to the place where the dumping was done. And we can now pretty well surmise that most of this 8 to 10 million gallons of toxics in this area was dumped during that period.

I just can't fathom how come, with State laws on the books making this illegal, that there was only one prosecution as a result of this. Certainly, there must have been more than one family involved.

I also have been told that the law enforcement officials stationed watches who watched while 2 million gallons was dumped before they made the arrest in this case.

I would like reassurance from the gentleman from Pennsylvania that the law enforcement mechanisms have been improved since that particular period.

Mr. KANJORSKI. I am not certain. I would not have individual knowledge. I think, as I have indicated to you, we really have to get environmental cooperation by the citizenry and give some incentive that they participate with law enforcement to track and trace this down and to provide the testimony needed to prosecute. In most instances, it is done—the conspirators are not only the people who provide the susbstance from out of the area but also the delivery people are from out of the area. It is not an activity of the entrepreneur or the activity of the people who live in the area. They only have a 200-square-mile area, 10 miles up to the mountain and 20 miles long that is being used, but they are in most instances not participating.

I agree there was the Skatina family. In most instances that is an unusual circumstance. The dumpers have found sources of materials and perhaps even purchases from out of the area to use it on a large scale.

If I may, one or two questions so that the record is clear. The gentleman from Danville, can you get in the record, there are other water users from the Susquehanna River, is that correct? Can you give us some estimate of what that would be?

Mr. GRAHAM. To my knowledge, I believe Shamokin Dam users from the Susquehanna and may come as far as Harrisburg. The next person to use Susquehanna water, Sunbury, has, I believe, an option—I am not absolutely sure—they have an option. They have an impounding reservoir or the river.

Mr. KANJORSKI. Mr. Graham, am I to assume that you have no mechanism where you are examining the molecules in the water coming down that would indicate what the control is? And in fact, this discharge and the stoppage of your intake valve was found on a site basis that there was scum. If there had not been oil with this contaminant, there would have been no way in the world that you knew there was a pollutant coming down the river, is that correct?

Mr. GRAHAM. Correct. We may have smelled it, like the people in Pittston.

Mr. KANJORSKI. But we assume that the molecules are so interspersed, if they were below the surface, if they were below the sur-

BEST COPY AVAILABLE

face, if they had not steamed off so that they were sensitive to the nostrils, there is no mechanism to protect your water system, the Harrisburg water system or anything in between, is that correct?

Mr. GRAHAM. Correct. As a matter of fact, there is about two laboratories in the State of Pennsylvania who can do those types of analyses.

Mr. KANJORSKI. Isn't it further correct that if there had not been the slick of oil, in fact, in reality from the point of closedown of the monitoring by the State in 1982, every day there could have been continuous poisons coming out of that tunnel and other tunnels of the mines in the Wyoming Valley area that went into the Susquehanna River and were never detected by anyone, and perhaps had been ingested by the people in your community and the hundreds of thousands of others that drink that water, to no one's knowledge, is that correct?

Mr. GRAHAM. That is perfectly possible, yes.

Mr. KANJORSKI. Now, to my friend from Louisiana, who said I could direct this perhaps to the doctor, isn't it correct that there are technologies and research and development?

And, if I am not most incorrect, in 1969 there was a Westinghouse project that was fostered by the Schaefer administration of Pennsylvania where they were going to take mine water and treat it in such a way as to make it totally pure water and in the doing of that, they would have a cogeneration operation so that where the initial capital was put in there would be a storage of the polluted water, it would be a storage of the polluted water; it would be fed through the cogeneration system to convert it to pure water which would be a usable asset for industry, and it would generate electricity to the tune that it would be self-sustaining after the initial capital investment. Are you aware of that?

Mr. COLE. I am not familiar with that.

Mr. KANJORSKI. I would like the record to show that that system was designed and anticipated in 1969 and with the advance over the last 16 years of technology, I am certain that the remedial solution here should not be looked at by EPA or DER or the Butler mine tunnel, but should be the tremendous 3,000 miles of tunnels and the initial seven tunnel outlays to the Susquehanna River and ancillary outlays of about 48 streams and then a self-perpetuating and self-sustaining operation to clean up the pollutants and to turn it into either—either generate electricity or pure water so that we can pay for it and make it a viable operation that will continue indefinitely in the future is a viable solution today.

That is where the remedial solution should be, not merely collecting and putting into this some reservoir and then transporting it, God knows, maybe to New Jersey.

I don't think you wanted dirty pollutants, Mr. Chairman, in New Jersey, and I don't think any other State in the Union wants them. I would say to my friend from Louisiana, if anything in this hearing should clearly attest to, it is the fact that the American people want us finally to clean up these pollutants, not to put them in air like jugglers and keep them in the air.

We have now got to go the final solution—and I choose those words—that we need a final solution for pollution in this country, and it is detoxification, it is filtration, and it is cleanup.

BEST COPY AVAILABLE

Mr. FLORIO. The time of the gentleman has expired.

Let me express my appreciation to the panel. We thank you very much for your help.

Mr. FLORIO. We are going to call our next panel and try to refocus our attention on the specific question that we are attempting to address.

The discussion has been very productive in terms of how this problem got there, the enforcement or the nonenforcement of laws against illegal dumping, the uniqueness of the characteristics here. But a key point that we are attempting to address—and I know this next panel will be of assistance to us—is how sites get evaluated for Superfund treatment, how they get evaluated for being on a list, and how they, in fact, get evaluated for being taken off of a list.

We are pleased now to have our next panel, which is made up of: Mr. Harry Bittle, deputy secretary of DER in Pennsylvania, the State agency; Mr. Thomas Massey, Section Chief, Emergency Response Section, Region III of the Environmental Protection Agency; and William Hedeman, Jr., Acting Director of the Office of Emergency and Remedial Response, of EPA.

Mr. LENT. Before the panel begins, may I have unanimous consent to insert in the record at the appropriate place my opening statement?

Mr. FLORIO. Without objection, so ordered.

[The prepared statement of Mr. Lent follows:]

OPENING STATEMENT OF HON. NORMAN F. LENT

I commend the chairman for holding a hearing on the Butler site in Pittston, PA. This site poses some exceedingly difficult issues for EPA as well as those of us in Congress who are attempting to enact legislation that assures prompt and effective cleanup actions at Superfund sites.

In July and August 1979, I understand that over 100 thousand gallons of oily waste spilled from the Butler Tunnel into the Susquehanna River. This spill caused EPA to list Butler Tunnel on its interim priorities list, in October 1981. The site, however, was not listed on the final national priorities list. Although we cannot expect every site to be "hurricane-proof", the most recent leak at the Butler site in the wake of hurricane Gloria has made EPA's decision not to list the site on the national priorities list look less than adequate. This subcommittee needs to know why the Agency made this decision and what plans it has now to address the potential threat at the Butler site.

In reviewing the facts on this case, however, I would urge my fellow colleagues and the public not to lose sight of the important recent gains the Agency has made under the stewardship of Bill Ruckelshaus and Lee Thomas. We may find as a result of today's hearing that the issue may be one of poor management and decisionmaking in EPA back when the Agency was suffering in general at the hands of inexperienced managers. I do not believe this is the case now. In my own opinion, the Superfund Program has improved over the last 4 years.

I look forward to hearing from all of our witnesses today, especially the officials from EPA who can begin to shed some light on way these decisions were made. I suspect what we will learn here today is that there are no easy and readily available solutions to this site. Even so, I want to assure myself and the public that EPA is doing everything possible to ensure that this kind of spill does not occur again.

Mr. LENT. And also, the letter I referred to earlier of the Commonwealth of Pennsylvania, dated February 8.

Mr. FLORIO. That will be ordered, as well as the letter that is in the possession of Mr. Tauzin, to be entered into the record, and that the committee will direct the appropriate inquiries to the officials, the authors of the letters.

[The material referred to follows:]

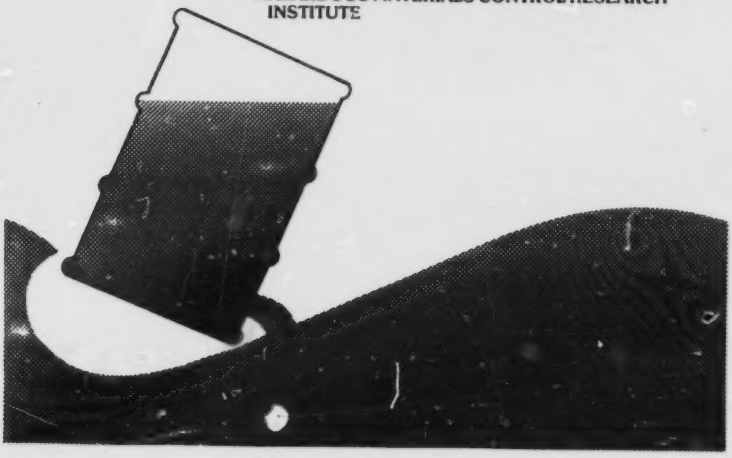
BEST COPY AVAILABLE

U.S. EPA National Conference on

Management of Uncontrolled Hazardous Waste Sites

October 15-17, 1980
Washington, D.C.

IN AFFILIATION WITH
U.S. COAST GUARD
CHEMICAL MANUFACTURERS ASSOCIATION
NATIONAL SOLID WASTE MANAGEMENT ASSOCIATION
HAZARDOUS MATERIALS CONTROL RESEARCH INSTITUTE



BEST COPY AVAILABLE

The Pittston Story

JOSEPH P. LAFORNARA
Environmental Response Team
U.S. Environmental Protection Agency
Edison, New Jersey

JOHN W. HAMMOND

and

PETER B. LEDERMAN
Roy F. Weston, Inc.
Weston Way
West Chester, Pennsylvania

THOMAS I. MASSEY
Environmental Emergency Branch
U.S. Environmental Protection Agency
Philadelphia, Pennsylvania

INTRODUCTION

On July 29, 1979, an oil spill on the Susquehanna River at Pittston, PA was reported to the Pennsylvania Department of Environmental Resources. This spill was traced to an alleged illegal dumping of millions of gallons of toxic waste into an abandoned coal mine through a sewage borehole at Dupont, PA two miles inland from the River.

The efforts to control this discharge have directly involved 18 Federal, State and local Agencies and 27 different contractors. In this paper, the authors present an overview of the complex operation. References to more detailed information are cited where they are available.

Location and Mining History

The Butler Water Tunnel is a mine drainage tunnel which empties into the Susquehanna River approximately 350 ft north of the Fort Jenkins Bridge in Pittston, Pennsylvania in the Northern Anthracite Coal Basin which was actively mined from the early 1800's to the late 1950's. The purpose of the tunnel is to drain deep mine workings of the Butler Colliery that are located above the headward end of this tunnel.

In order for the tunnel to drain these workings, it was driven 7500 ft underground from the outlet at the Susquehanna River through the workings of the No. 9 Mine and a portion of the Ewen Mine into the Butler mining area. In so doing, the tunnel rises from an elevation of 528 ft at its outlet to a headward elevation of approximately 585 to 590 ft.

Mine Drainage

The Butler Mine Tunnel itself is designed only to drain that portion of the Butler Mine workings which occurs generally above elevation 585 ft. However, mining has occurred in this complex in numerous seams to elevations as low as 300 to 400 ft. This is also the case in adjoining mining areas including the adjacent Ewen and No. 9 Collieries. Therefore, in the Butler, Ewen, and No. 9 Collieries, water has accumulated and formed several "mine pools."

History of the Problem

The Butler Water Tunnel is a rather old installation that has been in use since long before 1930. During that time, it has been discharging water containing acid mine drainage contaminants comprised of sulfates, acidity, iron, and manganese to the Susquehanna River. In a region such as the Northern Anthracite Basin in which acid mine drainage is a very common surface water contaminant this discharge bears very little significance to the overall water quality of the Susquehanna River.

However, in late July 1979, an oily discharge emanating from this tunnel was observed to be creating a significant oil slick on the Susquehanna River at Pittston. Response by Pennsylvania DER and USEPA officials determined that an oily waste was being discharged from the tunnel at the rate of approximately 1,000 gal/day; along with this waste oil, several carcinogenic substances including dichlorobenzene (DCB) were also being discharged. Subsequently, it was determined that cyanide compounds were also contained in the discharge from the tunnel.

In late August 1979, the rate of discharge of oil waste from the tunnel dropped dramatically while the flow of water increased several fold. In mid-September, however, the rate of oily waste discharge increased

BEST COPY AVAILABLE

beyond its former level when the water flow rate dropped. Another increase in water flow in early October coincided with a decrease in oily waste discharge. A rise and fall in waste discharge also occurred in late March 1980. Between the periods of major releases, the tunnel water has had an oily sheen on its surface. This sheen has been contained and removed by a third party clean-up contractor hired under the Pollution Revolving Fund established by the Clean Water Act (PL 92-500 Section 311).

Boreholes

A borehole is defined by Webster as "a hole made by boring esp. a well." A borehole in the anthracite mining region of Northeast Pennsylvania, however, has an added connotation. The geography and geology of the area make sewer systems expensive and septic tank systems ineffective. It is common practice in the area although technically illegal to drill a borehole into an abandoned mine void for the purpose of sewage disposal. Residential, industrial, and commercial buildings have boreholes for this purpose. Even schools and local courthouses are known to have boreholes. These can also function as vents, the prevalence of which make the contamination of a coal mine (normally viewed as a closed system) a major public health and safety threat to over 30,000 persons who live in the area.

INITIAL RESPONSE

On July 29, 1979, the State of Pennsylvania, Department of Environmental Resources' Wilkes Barre Office, received a report of a "sheen" on the Susquehanna River at Pittston, PA. The next morning DER informed EPA's Region III Environmental Emergency Branch and an OSC was dispatched to Pittston. An on-site investigation revealed that the oily material was being discharged to the River from the Butler Tunnel.

Efforts to contain and remove the spilled oil were initiated immediately by DER but were hampered by the unavailability of booms and skimmers in northeastern Pennsylvania and by the inaccessibility of the tunnel mouth (having been overgrown with dense vegetation).

A spill cleanup contractor, Underwater Technics, Inc. from Philadelphia, was hired under the Clean Water Act Section 311 Pollution Revolving Fund and was on-scene late July 31st. By early the next day, some boom was in place but a visible sheen extended 35 miles downstream.

Coincidental with this discharge, the DER Wilkes Barre Office, was investigating reports of the dumping of toxic industrial wastes into a sewage borehole into the Butler Mine several miles in-land from the River. The possibility that the discharge was related to the uncontrolled dumping activity was rapidly established when GC/MS analyses at the PA DER Laboratory in Harrisburg of the oily material emanating from the tunnel revealed high concentrations of several classes of toxic industrial chemicals. These included dichlorobenzenes, dioctylphthalate, alkylphenols, toluene, xylene, ethylbenzene and naphthalene.

Hazard Assessment

An evaluation of the public health and environmental hazards associated with each of the materials was performed. The toxicological data and data on persistency in the water environment of the several chemicals involved is shown in Table 1. From these data, it was evident that there was an imminent threat to the public health through any public drinking water systems using the Susquehanna River downstream of Pittston.

A comprehensive sampling and analysis program showed that dichlorobenzene (DCB), the compound of the discharge that was easiest to analyze, was present in low concentrations in the River as far as 60 miles downstream at Danville, PA, the first water in take on August 3rd. The water utility was advised of the condition and immediately instituted an activated carbon treatment.

The hazard assessment also revealed that skin contact with the waste would pose a threat to persons who might be swimming, fishing or boating on the River. For that reason, the PA DER agreed to close the river, in the contaminated zone, to recreational and commercial activities.

Table 1: Toxicological and Persistency Data for Butler Tunnel Discharge

	Water Quality Criteria-Human Health[1]	TLV[2] (mg/m³)	Carcinocity[2]	Mutagenicity[2]	Teratogenicity[2]	Volatility[2]	Biodegradability[2]
Dichlorobenzene	230	300	Suspected	Positive	ND	Slow	Slow
Dioctylphthalate	10,000	5(mist)	Suspected	Positive	Positive	Very Slow	Slow
Naphthalene	143	50	Suspected	Negative	Positive	Slow	Moderate
Alkylphenols	ND	ND	ND	ND	ND	Slow	Moderate
Toluene	1,240	375	Suspected	Suspected	Negative	Rapid	Moderate
Xylene	ND	435	Suspected	ND	ND	Moderate	Slow
Ethylbenzene	1,100	435	Suspected	ND	ND	Moderate	Slow

[1]"Ambient Water Quality Criteria Series — Criteria and Standards Division, Office of Water Planning and Standards, EPA, Washington, D.C. 20460

[2]Oil and Hazardous Materials — Technical Assistance Data System (OHMTADS), Oil and Special Materials Control Division, EPA, Washington, D.C. 20460

BEST COPY AVAILABLE

Spill Control Measures

The initial control measures taken by PA DER on July 30, 1979, involved the construction of a make shift "filter fence" in the River at the tunnel mouth. Due to the shallowness of the River at this point and due to the velocity of the tunnel drainage, this containment method was ineffective. The cleanup contractor was on-site on July 31, 1979 and reconstructed a more sophisticated "filter fence" and deployed booms in the River around the tunnel mouth. These measures were also unsuccessful for the reasons mentioned above.

In the next several days, several configurations of filter fences in the tunnel discharge runway and booms around the discharge were attempted but none performed as effectively as desired. The OSC then instructed that access to the tunnel be improved and a "stilling basin" be constructed in the tunnel runway and river bank to reduce the velocity of the discharge so that more contaminant could separate from the water before entering the river. Booms and sorbent booms were placed in three concentric rings around this stilling basin. Sorbent was deployed and retrieved within the stilling basin and booms.

Further booms were deployed downstream of the discharge to divert any escaped floating contaminant to the bank where it could be removed. When initial deployment of these diversionary booms proved inefficient, dye tests were conducted to determine flow pattern . the River and the diversionary booms repositioned. By August 10th the containment and removal efforts reached peak and maintained efficiency as evidenced by the containment of the sheen to an area less than 0.5 miles downstream from the tunnel.

Safety Procedures

From the first day of the discharge, it was apparent that the physical safety precautions and equipment normally employed during oil spill cleanup operations would be inadequate to insure worker and public safety. The presence of known toxic chemicals and potentially explosive vapors dictated that extraordinary care be taken to prevent exposure of personnel and contamination of the city streets. Rubber suits and purifying respirators were required to be used when entering the work zone. In addition, self-contained breathing devices were required by any personnel who entered the tunnel itself.

A decontamination station was used to assure that no contamination was carried off-site by workmen. Intermittent monitoring of the workplace atmosphere was performed by EPA Office of Occupational Health and Safety (OOHS) using a photoionization detector.

Nature of Contamination

A multi-media, wide area sampling and analysis program was necessary to determine the nature and extent of contamination caused by the discharge, to determine the suitability of the water for drinking and the fish for human consumption, and to give an indication of the effectiveness of the control measures. PA DER performed the bulk of the sampling and laboratories from various state and Federal agencies were employed to perform the analyses.

The PA DER Laboratory in Harrisburg performed the initial analyses to determine which compounds were present in the discharge. This required a gas chromatographic/mass spectrometric analysis. The analyses were performed on a short-turn-around basis (8 hours). During the first several days, all of the discharge and river samples were analyzed by this technique requiring nearly round-the-clock operation. The results of the qualitative analysis were documented above.

To reduce the workload to a manageable level, dichlorobenzene (DCB) concentration was selected and DCB levels were monitored using the GC/MS to analyze the extract of the entire water/organic layer sample.

Because of the distance and logistics involved in transporting samples to the Harrisburg Laboratory and because the repetitive analysis of DCB was not an efficient use of a GC/MS, the OSC decided that the EPA Mobile Spills Laboratory should be employed. This unit was designed, fabricated and operated by the EPA ORD's Oil and Hazardous Materials Spills Branch at Edison, New Jersey, is a full-equipped instrumental laooratory capable of performing trace level analyses on-site at environmental emergencies.' It arrived on-scene late on August 3rd and was analyzing for DCB on August 4th using a sophisticated rapid gas chromatographic technique.

Samples of the Danville, PA raw water and finished water were subsequently in the mobile laboratory. No DCB was found in samples taken on August 1st, but very low levels (6 $\mu g/l$) were detected in raw and finished water at Danville on August 3rd. Subsequent analyses showed no DCB in Danville finished water. This is attributed to the combined effect of the enhanced effectiveness spill control techniques and the use of powdered activated carbon treatment at water treatment plant.

Fish Analysis

Samples of fish taken by PA DER were analyzed by the Food and Drug Administration Laboratory in Baltimore, Maryland. Initial samples revealed low DCB levels but this was attributed to the fact that the fish had come in contact with the sheen during the sampling process. Subsequent fish samples showed no DCB.

CYANIDE MONITORING

In mid-October 1979, as a result of the continuing investigation by PA DER of the dumping of toxic chemical waste into the Butler Mine, the OSC was informed that several hundred thousand gallons of cyanide waste had been injected into the mine while the dumping was going on. This triggered a second-phase effort to assure that the public health was safeguarded.

The OSC, upon being informed of the presence of cyanide waste in the mine, activated the Environmental

BEST COPY AVAILABLE

Response Team to assess the danger to the public. The ERT determined that 200,000 gal of hypothetical 1% sodium cyanide solution could release approximately 105,000 ft³ of hydrogen cyanide gas when it contacted the acidic water in the mine. This gas could have been released immediately and trapped in the mine or the cyanide could have been carried in water and released to the River.

Unfortunately, the hydraulics of the mine polls were not known at the time, and since there was no indication that the cyanide had been dishcarged with the water, it was assumed that it remained trapped as a gas in the mine. If this were true, then a possibility existed that hydrogen cyanide which is less dense than air will rise to the top of any chamber, dome, or borehole. The cyanide could therefore be released to the open environment in the Pittston area or into buildings depending on the plumbing of the individual borehole.

This rising cyanide gas phenomenon would be further enhanced by the onset of cold weather when the mine gases themselves (being warmer than the outside air) would rise and vent. The ERT, therefore, recommended that the OSC institute a program to locate hydrogen cyanide in the mines by monitoring the gases in boreholes in the Pittston area.

Borehole Monitoring Program

At the direction of the OSC, a borehole monitoring program was developed and implemented. The RRT was activated and representatives from PA DER, PA Bureau of Deep Mine Safety, EPA, USCG, OSHA, Bureau of Mines, local government officials, Civil Defense, and Congressman R. Musto's office assembled on-scene. It was decided that a two-phase program would be instituted.

Boreholes which were open to the atmosphere would be monitored in the first phase. In the second phase, those which were sealed would be monitored in the first phase. In the second phase, those which were sealed would be opened, sampled and re-sealed. A contingency plan was developed by PA DER Wilkes Barre Office and local government officials in the event that high levels of HCN were found in a borehole. This involved the use of an air dispersion model to determine a zone or radius of contamination. People within this radius would be removed until the mine void could be vented.

The analytical technique selected was the semi-quantitative "Draeger Tube" which gave a colorimetric reading when the hydrogen cyanide level was above 0.5 ppm. To expedite the survey two teams were set up, each with a person from the air pollution monitoring contractor, a person from the hazardous chemical response contractor, and a person from PA DER Bureau of Deep Mine Safety.

Medical back-up for the monitoring program was provided by a PA Department of Health physician and the local ambulance service on site. Hospitals in the area were put on alert. During Phase I, the members of each team were required to wear chemical splash suits and self-contained breathing apparatus while actually sampling. During Phase II, the teams were equipped with encapsulating suits ("moon suits") and self-contained breathing devices.

The teams sampled more than one-hundred privately and publicly-owned areas distributed over the area of concern to assure that the program gave statistically valid profile of the boreholes in the area. Six positive readings between 0.5 and 1.5 ppm of cyanide were found in Phase II. Subsequent sampling of these gave negative readings. Based on these data, it was concluded that most, if not all, of the cyanide had already left the mine either through venting or in the water. If any cyanide remained in the mine, it was deemed unlikely to pose a threat to the public under then present geological conditions.

LONG TERM REMEDIAL ACTIONS

The recurrence of major discharges in mid-September 1979 and again in March 1980, coupled with the alleged presence of cyanide wastes in the Butler Mine, made it imperative on the OSC to develop options for controlling the discharge. Two approaches are being investigated: (1) the treatment of the Butler Tunnel discharge at the tunnel mouth and (2) the location of the "mother lode" of contaminant in the mine followed by appropriate control or removal action inside the mine. Separate contractors have been hired to perform the treatment system design studies and the hydrological/drilling studies necessary to produce the data on which selection of approach could be made. These studies are proceeding concurrently and are being coordinated by the ERT.

Treatment System Design Study[1]

A consulting firm was retained by the OSC to determine alternative approaches to treatment and/or decontamination of the toxic oily material draining from the Butler Tunnel. The scope of the project was divided into four phases. During Phase I, pertinent available data on the mine pool wastes were collected and reviewed. Analytical protocols for characterization of the mine pool wastes were to be developed. Potential alternatives for concentration and disposal of the wastes were to be determined.

During Phase 2, data from treatment studies previously performed on the effluent from the Butler Tunnel were to be evaluated. Supplemental treatment studies, if necessary, were to be recommended. Alternative methods for temporarily treating the effluent were also to be recommended.

During Phase 3, waste samples collected from the mine pools were to be analyzed. Cost estimates were to be developed for feasible treatment alternatives. During Phase 4, supplemental analytical and treatability studies on the Butler Tunnel effluent were to be performed, which were necessary to recommend a temporary treatment scheme for the tunnel's effluent.

On June 11, 1980, the contractor was notified that due to funding limitations being experienced by EPA, the technical effort on this project was to be suspended.

BEST COPY AVAILABLE

Based on the results of the project, the following conclusions were drawn:

1. There were no real, historical data available on the characteristics of the mine pool wastes. However, inventories of wastes which may have been dumped into the mine pools indicate the possibility of extensive contamination.
2. Analytical data, available for samples taken from various boreholes into the mine pools do indicate a general level of contamination of the mine pools. The mine pools are contaminated with various waste oils, solvents and other organic species. The concentration of the species found in the mine pools is approximately of the same order of magnitude as those found in the Butler Tunnel discharge.
3. Because no localized pockets of contamination in the mine pools have been found, no treatability strategies for the mine pools were developed. Because of the apparent similarity between the composition of the mine pools sampled so far, and the Butler Tunnel discharge, similar treatment strategies should be possible.
4. In order to establish final treatment requirements for the Butler Tunnel discharge, a 96-hour continuous flow bioassay shold be run using the waste.
5. To successfully treat for the oil and the low level organics found in the Butler Tunnel discharge, oil/solids removal facilities followed by activated carbon will be necessary.
6. Preliminary concept designs for Butler Tunnel treatment facilities were done for two design flows: (1) 3.0 mgd and (2) 6.0 mgd. Estimates of capital and annual operating costs were made for each size Butler Tunnel treatment facility. For the 3.0 mgd system, these costs would be $2,279,400 (capital) and $1,347,000/yr (operating) respectively. For the 6.0 mgd system these costs would increase to $3,434,700 and $2,559,000/yr. The most significant components of the cost were for the initial and replacement purchase of the activated carbon.
7. On-site pilot tests will be necessary to determine the values of the final design specifications for the activated carbon system and the oil/solids separation facility.

Hydrogeological/Drilling Studies

Another consulting firm was retained by the OSC to determine location and sources in the Butler Mine of the water and contaminant flow into the Butler Tunnel. This was done in three phases. Phase I conducted in the late Fall of 1979 was a comprehensive collection, review, and correlation of all the water flow, mine pool levels and chemical analysis data, and an examination of the detailed subsurface maps of the mines around the Butler Tunnel. From these data, it was determined: (1) that the concentrated floating oily waste would only be discharged from the tunnel at periods when the level of water stored in the mines was low, (2) that the soluble portion of any material injected at the suspected borehole was diluted in the mine pool and could have been released to the surface at points other than the Butler Tunnel, and (3) that large quantities of floating oily waste could be trapped in the Butler Mine in only a few designated places.

A Phase II study was recommended and conducted to drill into the mine at the places designated in Phase I to verify or eliminate the presence of the "Mother Lode". During the Spring of 1980, eight boreholes were drilled taking special precautions to prevent cross contamination between mining veins at various levels. As a result of this drilling, the location of the "Mother Lode" was narrowed to a relatively small area and a drainage ditch within the mine. A Phase III program to precisely locate the contaminant is scheduled for completion by the Fall of 1980.

CONCLUSIONS

To date the OSC has been successful in preventing the gross contamination of the Susquehanna River by this discharge of toxic waste, despite the release of over 163,000 gal of oily waste which contained almost 13,000 lb of dichlorobenzene. This has been accomplished by 45 organizations working under the National Oil and Hazardous Substances Pollution Contingency Plan. To date, over $2,000,000 in Federal funds have been expended including Pollution Fund expenditures and unreimbursed costs for EPA and the other RRT and NRT Agencies. The Commonwealth of Pennsylvania has incurred an additional $800,000 in costs for analysis, personnel and equipment which are not presently qualified for Federal Funding.

REFERENCES

1. Urban, M., and Losche, R., "Development and Use of a Mobile Laboratory for Hazardous Material Spill Response Activities", Proceedings of 1978 Conference on Control of Hazardous Material Spills, Information Transfer, Inc., Rockville, Maryland, M.F. Bennett, ed, p 311-314.
2. "Report to On-Scene Coordinator: Treatability Study Major Pollution Incident Butler Tunnel, Pittston, Pennsylvania", R.F. Weston Inc., West Chester, Pennsylvania, 1980.
3. "Hydrogeology of the Butler Waste Tunnel Hazardous and Toxic Materials Discharge Pittston, Pennsylvania," R.E. Wright Associates, Inc., Harrisburg, Pennsylvania, 1979.
4. National Oil and Hazardous Substances Pollution Contingency Plan, 40 CFR Part 1510, 1980.

BEST COPY AVAILABLE

Mr. FLORIO. Gentlemen, we are pleased to have you here this morning. Any formal statements will be inserted into the record in their entirety. You may proceed as you see fit, and maybe we can hear from the representative from Pennsylvania first.

STATEMENTS OF R. HARRY BITTLE, DEPUTY SECRETARY FOR ENVIRONMENTAL PROTECTION, PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES; WILLIAM N. HEDEMAN, JR., DEPUTY ASSISTANT ADMINISTRATOR FOR WATER, ENVIRONMENTAL PROTECTION ADMINISTRATION, ACCOMPANIED BY TOM MASSEY, SECTION CHIEF, EMERGENCY RESPONSE SECTION, REGION III; AND JOE LAFORNARA, ENVIRONMENTAL RESPONSE TEAM

Mr. BITTLE. Thank you, Mr. Chairman. It is a pleasure to be here this morning with this committee. I want to express my appreciation and also commend you for your efforts as far as these endeavors are concerned.

My name is Harry Bittle. I am deputy secretary for environmental protection with the Pennsylvania Department of Environmental Resources. I have submitted written comments for the record, Mr. Chairman, and what I choose to do now before we get to the questions and answers would be to highlight some of those comments for the committee.

Since July 1979, when the first discharges of oily wastes were discovered, both the DER and EPA have been dealing with this site and its problems on several fronts, first, responding to the immediate emergency and calling on EPA to start cleanup activities.

The second dealt with identifying and prosecuting those individuals responsible. And third was the committing of the necessary State resources to locate any underground pool of waste whenever that was possible.

With EPA taking the lead under its authority, we believe the immediate emergency at that time was dealt with effectively. Staff from the department of environmental resources immediately began an intense investigation into the possible sources of the waste. A general investigation was already underway following tips on illegal hazardous-waste activities in northeastern Pennsylvania at the time of the 1979 incident.

In March 1980, charges were filed against nine people for illegally dumping at least 500,000 gallons of hazardous waste down a bore hole at an automobile service station. Those people were convicted, given jail sentences, and fined over $1 million.

Ironically, Mr. Chairman, only the day before the September 27, 1985, incident, the convictions of several of these key players were upheld by the supreme court of the Commonwealth of Pennsylvania.

As far as the tunnel is concerned, Mr. Chairman, it was built in 1902 by a local coal company to drain water from an underground anthracite coal mine. Between 2 and 5 million gallons of water a day have been flowing out of that tunnel ever since it was constructed for that purpose.

The mine workings themselves are what I might refer to as a three-dimensional maze with some five levels of rooms and corri-

BEST COPY AVAILABLE

dors stacked on top of each other. Most of the mine was not well mapped. There is no simple underground roadmap to follow and no easy way to tell where waste would go once it was in those mine voids.

And I can add here, Mr. Chairman, I was born in the anthracite region, but still, when I began studying mine maps in my present position with the department, it is mind-boggling to look at those kinds of maps and try to find out where anything entering that kind of a maze would go.

The department spent $770,000 in State funds to respond to the emergency in an attempt to locate an underground pool of waste. I think that you can understand that the Butler mine tunnel is not the typical Superfund site where the contaminated area is easily identifiable and the cleanup can be handled by removing drums and securing the site.

Because of the potential for discharges after the 1979 incident, DER started a program in November 1980 with EPA help to closely monitor the Butler mine tunnel discharges. We thought this was the best insurance against environmental harm in the future, since we were not able to locate and clean up a pool of waste feeding the tunnel at that time.

Our technical evaluation that there may be future discharges unfortunately turned out to be correct. The extraordinarily heavy rains from Hurricane Gloria have apparently changed the groundwater patterns significantly. The flow from the tunnel during Gloria was estimated from 60 to 100 million gallons a day rather than the normal 2 to 5 million gallons a day.

There are now indications that a pool of perhaps 70,000 gallons of contaminated water is located underground. And I did want to stress that point, Mr. Chairman, I do not believe that there is any evaluation that indicates that the 70,000 to 100,000 gallons is waste. We have located a pool in a given area, I believe, under bore hole 10, that would indicate 70,000 to 100,000 gallons of contaminated water. What percentage of that would be actually the oily wastes we are talking about here today I am not sure I am prepared to say at this time.

Mr. FLORIO. There is no interconnection between the various sections of the tunnel system that you can isolate, a particular pool that is not in any way connected with the tunnel labyrinth?

Mr. BITTLE. I am not sure I understood that.

Mr. FLORIO. You said you think there is a pool of 70,000 gallons of toxic contaminated water. Somehow implicitly in that I gained the thought that you're talking about an isolated pool of contaminated water that is isolated from the rest of the labyrinth in the tunnel network that flows out to the tunnel entrance.

Mr. BITTLE. You have that many times in underground abandoned mine workings, Mr. Chairman. You will have certain depressions that hold pools of water. How isolated they are depends on how the mining activity was conducted, what kind of collapses there may have been at times, whether the barriers were up.

Mr. FLORIO. If you conclude it is isolated, then we would never need to have any concern about it working its way to the tunnel entrance. And if you don't, then it is irrelevant if it is isolated today. The next rainfall may result in its not being isolated. You're

60-286 0 - 86 - 3

BEST COPY AVAILABLE

not talking about 70,000 gallons of water somehow segregated. It can be 70,000 gallons of water that you have discovered that is going to be part of the whole system; that is, millions of gallons of contaminated water coming out of the tunnel entrance.

Mr. BITTLE. Part of the problem is just what you pointed out, Mr. Chairman.

Mr. FLORIO. It is irrelevant to say that it somehow implies that it is isolated and therefore it is not of impact to the rest of the tunnel labyrinth.

Mr. BITTLE. I do not mean to indicate that. I mean, the pool exists, but by the next surge of water through that pool by another incident like Gloria, you could have a substantial portion of that again come into the outflow.

Mr. FLORIO. Thank you.

Mr. BITTLE. Pennsylvania, Mr. Chairman, with 59 sites, is fourth national in the number of sites listed or proposed for the Superfund National Priority List. In February 1984, Pennsylvania became the first State in the United States to sign an agreement with EPA to take the lead in cleaning up Superfund sites in the Commonwealth.

We feel the combination of these efforts has made Pennsylvania a leader in the Superfund program and in cleaning up hazardous-waste sites that threaten the public health and the environment.

Mr. Chairman, I will entertain any questions that you might wish to direct.

[The prepared statement of Mr. Bittle follows:]

BEST COPY AVAILABLE

Remarks of
R. Harry Bittle
Deputy Secretary for Environmental Protection
Pennsylvania Department of Environmental Resources
October 23, 1985
Before the
Subcommittee on Commerce, Transportation and Tourism
House Committee on Energy and Commerce

Mr. Chairman and members of the Subcommittee, I am pleased to present this testimony on behalf of the Department of Environmental Resources (DER) on the complex problems posed by the site known as the Butler Mine Tunnel in Pittston, Luzerne County, Pennsylvania and to give you an update on the Department's Superfund activities in the Commonwealth.

I am Harry Bittle, Deputy Secretary for Environmental Protection, the Department official responsible for managing the state environmental programs attacking hazardous waste problems.

In the last two years DER has built a special 22 member staff that does only Superfund-related work. In the last 10 days Pennsylvania has formally asked the Environmental Protection Agency (EPA) for hazardous waste program authorization so we can help prevent Superfund sites in the future. We have also moved quickly to investigate 937 sites in Pennsylvania listed in the last three years as potential uncontrolled hazardous waste sites.

Since July 29, 1979 when the first discharges of oily waste were discovered coming from the Butler Mine Tunnel, DER, with considerable assistance from EPA, has been dealing with this site and its problems on several fronts:

1. responding to the immediate emergency to limit environmental damage and calling on EPA to initiate clean up actions under its authority;
2. identifying and prosecuting those individuals responsible for the waste coming from the Tunnel; and
3. committing the necessary technical and financial resources to locate any pool of waste remaining underground.

In 1979 and in the most recent incident, Pennsylvania immediately called on EPA to contain and clean up the waste coming from the Tunnel. Under agreements with EPA, Pennsylvania can request EPA to activate its emergency clean up staff that deals with large spills or spills of toxic materials.

BEST COPY AVAILABLE

In 1979 an estimated 250,000 gallons of waste spilled into the Susquehanna River. In September 1985, an estimated 100,000 gallons escaped. With EPA taking the lead, we believe the immediate emergencies were dealt with effectively and adverse impacts on public health and the environment were limited.

Immediately after the discharge was discovered in 1979, technical experts from our Bureaus of Water Quality, Solid Waste, Laboratories and Deep Mine Safety began an intense investigation into the possible sources of the waste. A general investigation into illegal hazardous waste activities was already underway in northeastern Pennsylvania at the time of the 1979 incident. The Department and the then state Department of Justice (now the Office of Attorney General) had formed a task force to investigate tips on several illegal hazardous waste operations.

These efforts led in March of 1980 to the filing of charges against nine individuals for illegally dumping at least 500,000 gallons of hazardous waste down a borehole at an automobile service station about two miles from the Tunnel outfall on the Susquehanna River. The waste found at the service station was chemically and physically linked to the discharges at the Butler Mine Tunnel. As a result of the state investigation, these individuals were convicted, given jail sentences and fined over $1 million.

Ironically, the day before the latest discharges began on September 27, the Commonwealth's Supreme Court upheld the convictions of several key players in that illegal operation.

The Subcommittee has asked that we provide information on efforts to locate any waste remaining underground. Let me describe in a little more detail the problems we face in dealing with this site and locating any underground waste pool. It is these complexities that make this site unique in terms of emergency and remedial clean up activities.

The Tunnel was constructed in about 1902 by a local coal company to drain water from an underground anthracite coal mine in a five square mile area underneath Pittston. The mine workings have since been abandoned, but the Tunnel still serves as a link between the Susquehanna River and the mine catacombs. Between 2 and 5 million gallons of water per day have been flowing out of the tunnel since it was built.

The mine workings themselves can best be described as a three dimensional maze with five levels of rooms and corridors stacked on top of each other. Most of the mine was not mapped well so we had little idea where the rooms and corridors were in relation to the surface; whether they were interconnected vertically or horizontally; and even when we did locate voids, we could not be sure cave-ins and roof-falls had not blocked them, changing groundwater flow patterns.

BEST COPY AVAILABLE

We had no simple underground roadmap to follow and no easy way to tell where waste would go once in the mine voids.

Our investigation was further complicated by the fact that it was a fairly common practice for individuals in the area to illegally drill boreholes into these abandoned mine workings to dispose of sewage wastewater and stormwater. More importantly, however, these boreholes could serve as potential exit points for toxic vapor.

We succeeded in prosecuting the individuals we felt were responsible for putting the waste in the mine, however, technical studies by DER and EPA after the 1979 incident were unable to locate a residual pool of waste that might be feeding the Butler Mine Tunnel. The Department alone spent over $770,000 in state funds after the original incident to respond to the emergency and in efforts to locate any underground pool of waste.

Extensive studies were made of existing mine maps; new boreholes were put down into the mine voids to gather samples of water and air looking for chemical matches with the waste discharged; studies of mine water levels were conducted; and water quality and flow data were collected from the Tunnel itself; all failed to pinpoint a pool of waste in the underground maze of abandoned mine voids in the 16 months after the 1979 incident.

I think you can easily see the Butler Mine Tunnel is not the typical Superfund site where the contaminated area is easily identified and the clean up can be handled by removing drums and securing the site.

The extraordinarily heavy rains from Hurricane Gloria in late September have apparently changed groundwater levels and flow patterns significantly. The flow from the Butler Mine Tunnel during Gloria was estimated at 60 million gallons a day (mgd) rather than the normal 2 to 5 mgd.

There are now indications that a pool of perhaps 70,000 gallons of contaminated water is located in the vicinity of borehole #10 -- a borehole drilled as part of the studies after the 1979 incident by EPA contractors. We have given our technical information to EPA for their evaluation and asked that they take appropriate action to pinpoint and remove the waste as a part of their emergency response at the site.

Because of the location of this possible pool of waste and the knowledge that the rains from Hurricane Gloria apparently changed groundwater levels significantly, we have also asked EPA to do a follow-up hydrogeologic assessment of the likelihood of further periodic releases from the Butler Mine Tunnel.

BEST COPY AVAILABLE

Because of the potential for discharges after the 1979 incident, DER started a program in November 1980, with EPA help, to closely monitor the Butler Mine Tunnel discharges. We determined this was our best insurance against environmental harm in the future since we could not locate and clean up a pool of waste feeding the Tunnel at that time. As it turned out, our technical opinion that there may be future discharges was correct.

Pennsylvania -- with 59 sites --is fourth nationally in the number of sites listed or proposed for the Superfund National Priority List for remedial action. We recognize hazardous waste as a serious problem and have moved aggressively to identify sites for recommendation to EPA.

In February 1984 Pennsylvania became the first state in the nation to sign an agreement with EPA to allow the state to take the lead on cleaning up several Superfund sites in the Commonwealth. This agreement marked the first time EPA delegated to any state its investigation and planning responsibilities, along with the necessary financial support, on a multi-site basis under Superfund.

With DER taking the lead on sites since the agreement was signed, these sites have moved more quickly through the study stages leading to remedial action.

We feel the combination of these efforts has made Pennsylvania a leader in the Superfund program and in cleaning up hazardous waste sites that threaten public health and the environment.

We are anxious to work with EPA or any other Federal agency that can help us deal with the complex issues involved in cleaning up the Butler Mine Tunnel site. Our commitment of financial and technical resources to this problem already is evidence of our intent to deal effectively with this site.

We hope this background on the Butler Mine Tunnel site and our own Superfund activities has been helpful and we appreciate this opportunity to testify before the Subcommittee.

I would be happy to answer any questions the members of the Subcommittee may have.

BEST COPY AVAILABLE

Mr. FLORIO. Let me thank you.

At this point we will recess for approximately 10 minutes because we have a vote, and when we come back, we will hear from Mr. Massey and Mr. Hedeman.

[Brief recess.]

Mr. FLORIO. The subcommittee will reconvene.

As an accommodation of the schedule of the Pennsylvania representatives who I understand have to leave, we will defer for a moment the testimony of our Federal witnesses and perhaps just ask a few questions of the people from the S ate, Mr. Bittle.

Mr. Bittle, you heard me earlier make reference to the fact that some bore hole surveys were undertaken. Is that what you were talking about in your testimony about discovering large amounts of toxic contaminated water as a result of those exploration efforts and surveying efforts in the bore holes?

Mr. BITTLE. That is how the pool we are discussing was discovered, yes. And those efforts have been ongoing from 1979, I guess, through 1982, including a study with a consultant retained by EPA.

Mr. FLORIO. I am talking about survey efforts after the last spill.

Mr. BITTLE. Yes, in addition to the others.

Mr. FLORIO. At that time, it was represented to me that one bore hole containing a 4-inch deep pool of concentrated waste was discovered.

Mr. BITTLE. I am sure we are talking about the same pool, yes, Mr. Chairman.

Mr. FLORIO. So the problem is presumably ongoing, and particularly in response to Mr. Tauzin's questions, I suppose nobody can give a guarantee that new waste dumping has not taken place. But it has been my assumption that this is probably residual waste that has been there since the initial discoveries of the waste in 1979 and 1980, which probably came from the dumping that took place that was the subject of some of the criminal justice investigations and convictions.

Mr. BITTLE. I think that is correct, Mr. Chairman. We have no reason to think that the most recent outflow into the river and the mine pool that we are currently talking about are new wastes introduced into the mine system.

Mr. FLORIO. So the scenario that some might offer to say that this site was cleaned up in 1980, 1981, and 1982 and the most recent manifestation of the problem somehow could be a totally new problem that occurred after that cleanup. Would you assign any value or validity to that analysis?

Mr. BITTLE. I don't know that we can say it is a new problem in terms of new wastes being introduced into the mines. I can say that we probably consider it a new problem in that we found all that we were able to find at the first problem in 1979, '80, and '81, and the most recent outflow indicates that obviously, if in fact it is the same waste—and as I said, we have no reason to think it is not—that there was some movement of the wastes that were introduced into those voids in 1979.

Mr. FLORIO. Clarify the situation with regard to the monitoring device that has been made reference to today. EPA installed the monitoring device, left the site, presumably turned it over to you to

BEST COPY AVAILABLE

operate. My understanding is it was not operational and you discontinued it at some point. Can you clarify what happened?

Mr. BITTLE. Yes, Mr. Chairman. It was discontinued in 1984, and I will explain that further. But I think the chairman and the members ought to understand that that the monitoring device installed by EPA and then operated and maintained by the Commonwealth was just one part of a three-part monitoring program.

In addition, we had personal inspections of that every day. They did not stop. The personal inspections, personal visits did not stop. This is the type of waste, regardless of what effects it has on things, that is an oily waste, an oily sludge. It is one that is visible to the eye.

Mr. FLORIO. You are telling us that State officials went out to the site every day from 1980 to the present?

Mr. BITTLE. Daily, Mr. Chairman. In addition to that, there were quarterly samples taken, and the third part of that was the monitoring device that you are alluding to, which was what we might refer to as an alarm system. That device operated from, I believe, 1980 to 1984. In terms of its operation, it was becoming rather aged; it was becoming decrepit. Its downtime was turning out to be more than its operational time.

In addition to that, Mr. Chairman, as a practical matter, our people going to that site on the basis and the amount of times that they did actually were becoming more effective than the monitoring device. We would be there before the alarm went off on many occasions, knowing that a certain amount of rainfall would trigger that alarm.

Mr. FLORIO. What caused the 2-day delay after the storm? We have heard some of the citizens make reference to the fact that it took 2 days to get some equipment out there to arrest the infiltration into the river.

Mr. BITTLE. Yes, Mr. Chairman. Unfortunately, it was the volume we were dealing with, and that was how long it took to gear up fully to get that——

Mr. FLORIO. It was not a detection problem, it was a gearing-up time problem?

Mr. BITTLE. I don't think it was a detection problem. It was simply a matter of putting into play the massive amount of equipment and materials that were needed for that kind of a volume.

Mr. FLORIO. Let me briefly—and Mr. Kanjorski, the people from Pennsylvania have to leave, so we are asking them to respond to questions first.

Two last items. Just for the record, there is not any question, is there, that Pennsylvania implementing RCRA has the authority, and are you carrying out the authority to provide for manifest monitoring?

Mr. BITTLE. Absolutely, Mr. Chairman. We have what we consider to be a very good manifest system. It was put into effect by our Act 97 of 1980. It has been in effect after the implementation later that year or early the next year.

Mr. FLORIO. You are satisfied that you are tracking legitimately disposed of wastes in ways that meet acceptable standards?

Mr. BITTLE. Mr. Chairman, in addition to other evaluations, we evaluated ourselves in conjunction with filing our hazardous waste

BEST COPY AVAILABLE

plan. We believe it is working very well. We are tracking in excess of 150,000 manifests annually.

Mr. FLORIO. Let's shift to illegal dumping. Of course, there are Federal laws, very strong Federal laws, that provide for action against illegal dumpers. The difficulty, of course, has been just manpower personnel, in terms of evaluating, monitoring, catching people.

What is the state of the law with regard to Pennsylvania? I know at one point in, I recall, 1979 there was a deficiency in Pennsylvania. You did not have any laws, and people were literally dumping without any State law prohibiting dumping. Has that been changed? If it has been, what is the performance record at this point, and are there personnel problems equal to the Federal Justice Department, EPA personnel problems that we know are there in terms of having people in the field carrying out the provisions of the law?

Mr. BITTLE. Looking at the first part of your question first, Mr. Chairman, be assured that prior to 1980, in fact, there was a serious deficiency as far as those kinds of laws in Pennsylvania. I do not believe that deficiency any longer exists. Act 97 of 1980 is not only equal to, it is substantially stronger in those enforcement categories than the Federal laws, believe me.

I was an author and prime sponsor of that legislation in the House, and I am extremely familiar with it, and I know the difficulty in passage of that legislation because many people felt that it went way, way too far with severe penalties for illegal dumping and intentional dumping.

Mr. FLORIO. How about enforcement and personnel?

Mr. BITTLE. Mr. Chairman, if I were to say that we have all the people that we need to do everything that needs to be done, I would not be being honest with you. But let me say that the department of environmental resources is probably the only agency in the Commonwealth of Pennsylvania that has experienced the kind of growth that any governmental agency has, and that growth has been distributed to mostly the programs under formerly solid waste management, now Waste Management.

We have a Superfund Program alone that has 22 people involved in it in the Commonwealth, and I think as I indicated in my remarks, it is one of the most extensive programs in the United States. We were the first State to get Superfund lead from the Federal Government. We were the first State to go out and look for sites. We have a large number of sites in Pennsylvania. We are not very proud of that. But we are proud of the fact that we are not hiding our head in the sand. When I deal with some of my colleagues, they say, "We have no Superfund sites in our State," and I say, "Have you ever looked for any?" And they say, "Well, why do you look for them?" We do look for them. We find them. We try to treat them as quickly and as appropriately as we can, with EPA's help.

Mr. FLORIO. For the record, could you introduce your colleagues?

Mr. BITTLE. Jim Chester. Jim is my regional manager from the Wilkes-Barre region, where this incident took place. David Hess is with our office of policy. Jim Snyder, assistant director of the Bureau of Waste Management.

60-286 0 - 86 - 4

BEST COPY AVAILABLE

Mr. FLORIO. Let me express my appreciation particularly to Mr. Chester for his cooperation in making our trip to the site that much more valuable by virtue of the information he provided to us.

Mr. Kanjorski.

Mr. KANJORSKI. Mr. Chairman, in regard to the time restraints, I will hold back on my questions.

Mr. FLORIO. Let me express my appreciation. We will continue to be in cooperation with the State officials here as we continue in this ongoing evaluation of the Superfund system in general and the Butler Tunnel question in particular.

Thank you very much.

Mr. BITTLE. Mr. Chairman, we appreciate this opportunity and look forward to working with you in the future.

Mr. FLORIO. These witnesses are excused.

Mr. BITTLE. Thank you.

Mr. FLORIO. We are now pleased to hear from our two witnesses from EPA.

Mr. Hedeman, we would be happy to hear from you.

STATEMENT OF WILLIAM N. HEDEMAN, JR.

Mr. HEDEMAN. Thank you. For the record, let me correct the capacity that I am here in.

Mr. FLORIO. You have been switching positions over at EPA. It is hard for us to keep on top of these things. Hopefully, the folks that are being switched into the positions know what the positions are they're being switched into.

Mr. HEDEMAN. Yes; I am the Deputy Assistant Administrator at EPA for Water, as of Monday. However, for the last 4 years I have headed the Superfund Program, and in that capacity I have been asked to represent the agency today on this matter.

With me is Mr. Tom Massey, whom you have already alluded to, who manages the emergency response program for Region III in EPA and who has been the onscene coordinator at this particular site as well as 104 others over the last 5-year period.

To his left is Mr. Tom Voltaggio, who heads the Remedial Division at EPA, Region III. I have asked him to be here in order to share with you plans that we have for the site in the future.

And Dr. Joe Lafornara, who heads a portion of an environmental response team that we have out at Edison, NJ, that is brought in for particularly serious matters. He was involved at various times at the Butler Tunnel site.

We have heard this morning, and I have sat and listened to all of the witnesses on the background and the situation in terms of the geography of the area.

Two points that I would make that I do not think have been brought out in the testimony—the fact that we are dealing with a very extensive geographic area not only underlying the city of Pittston but, as has been brought out, the thousands of miles of honeycomb mines throughout the surrounding area of Pittston.

I am advised that as that area has been mapped over the years, it was done in a way in which—surveying techniques were at the time suspect, and regardless of the surveying that took place, mining proceeded until one did hit rock. As a result, much of the

BEST COPY AVAILABLE

mapping that we have in that area is of little use in trying to determine where the water and contaminants are or could go.

Second, there is, I am also advised, a mine-subsidence problem in that area which continues to aggravate the situation, and also the predictability as to where things are and exactly what does exist. We did, as the testimony has brought out, conduct a response action in July 1979 at the site. And the money for that came out of section 311(k) of the Clean Water Act funds, and not out of Superfund, because obviously that statute had not been in place at the time.

The Federal Government, through that fund, expended $2.1 million and the State another $770,000 to respond to the discharge out of the Butler Tunnel, a discharge of oily material containing highly toxic industrial chemicals, such as dichlorobenzene, anapthalene, toluene, voluene, ethylbenzene, and as the testimony has brought out, later some concern for cyanide was also made available.

We also advised the city of Danville, 60 miles downstream, of the situation, and implemented an activated-carbon treatment system at Federal expense for that city.

To address the cyanide concerns, we instituted a bore hole monitoring program to assure that none of the cyanide was emanating from the mine through the bore holes into residences and schools and the commercial establishments in the Pittston area.

I have listened to some dialog as to what types of facilities, including courthouses, may be involved in that. I think our position would be that it is more municipal buildings as opposed to a courthouse, that at least we found some evidence of having access to bore holes. Low-level cyanide readings were detected in six of the bore holes, and they were subsequently vented to correct that problem.

We have placed booms in the basin downstream, and approximately 61,000 gallons was recovered and removed from the site in 1979.

Following that, we instituted a multisampling program. The water sampling at that time at the Danville facility revealed only very low levels of dichlorobenzene in raw unfinished water during the response.

And subsequent analysis after the implementation of the activated treatment system at the water treatment plant, and the spill containment revealed virtually no levels of that substance.

During the time we also did a hydrogeologic study in which we examined and tested 235 domestic bore holes and drilled 12 exploratory holes in order to locate the so-called mother lode of contaminants.

Mr. FLORIO. Were those drilled randomly, or was there some process by which you selected?

Mr. HEDEMAN. There was a process to select the random drilling. It was not a haphazard drilling, as I understand it, but a process to attempt to select them, and also using as well the 235 domestic bore holes to augment that.

But at that time, no large pool of any chemicals was identified. Once the discharge had been mitigated, available data indicated that there was a low but continuing probability for subsequent discharges of oily contaminants and, based on that, as you have heard

BEST COPY AVAILABLE

from the State representatives, a containment and detection device was installed that was connected to the regional office of the Pennsylvania Department of Environmental Resources.

Those devices terminated in 1984, and the State assumed the responsibility, as they have indicated, for individual monitoring. But there was no evidence of any discharge from that period of time.

The agency began the Superfund Program in October 1981 by announcing 115 sites on an interim priority list that we began work at. Butler Tunnel was on that list. In 1982 we expanded it by another 45, for a total of 160 sites. And by July 1982, we were working off of that list.

Mr. FLORIO. How did things get on the interim list?

Mr. HEDEMAN. These were sites that had been brought to our attention at the early stages of Superfund, or in the alternative, prior to Superfund, such as Butler Tunnel, where we were doing work and which had been scored using the first cut of the hazard-ranking system, which at that time had not been proposed for comment or gone through rulemaking or incorporated into the National Contingency Plan.

Mr. FLORIO. This is the mitre model.

Mr. HEDEMAN. Which was refined somewhat from 1981, when the first 115 sites emerged, to July 1982, when it became part of the National Contingency Plan.

As I said, Butler Tunnel was on that interim list. It is significant, however, that it did not go through any rulemaking as sites now do for public comment. It simply was established as part of an interim list.

From those sites on that interim list, we began work at as many as we could during that period of time. During the period of——

Mr. FLORIO. Mr. Hedeman, may I ask, my understanding is this is the last vote for the afternoon. What I would like to do is go vote and then we can have an uninterrupted exchange.

We will stand in recess for approximately 10 minutes.

[Brief recess.]

Mr. FLORIO. The subcommittee will reconvene.

Mr. Hedeman, please feel free to proceed.

Mr. HEDEMAN. As I recall, I was at the point at which we had a working interim priority list in the middle of 1982 of about 160 sites. On that list was the Butler Tunnel site.

The agency, at the same time, began a process to come out essentially with the first proposed national priority list in a formal way by scoring well over 500 sites and identifying out of that 405 sites that were proposed for public comment on December 20, 1982, as the first official national priority list.

The Butler Tunnel, as you are aware, was not on that, but instead identified by the agency as a site that would be deleted from the initial interim priority list because, as we indicated, it had been cleaned up.

In retrospect, I think we would have been better advised to represent that the site did not, in our judgment, based on the actions implemented under section 311 of the Clean Water Act, present any further threat at the time and there was nothing that seemed appropriate to do to proceed further with that site.

BEST COPY AVAILABLE

You have had testimony this morning concerning what did occur as a result of Gloria, and I, in the interest of time will not rehash that because I have no dispute with it. We did respond again using initially money out of section 311 of the Clean Water Act. Preliminary lab results indicate the presence in minute amounts of dichlorobenzene in the oil, and with that in mind, we then began to use money out of the Superfund for the cleanup that was required as a result of Gloria.

Samples continued to be taken from the tunnel discharge and from the monitored bore holes We have accumulated a total of 45 55-gallon drums of contaminated oily material and approximately 80 cubic yards of contaminated soil and debris that was recovered as a result of Gloria that is on site and awaiting transport to an acceptable disposal facility.

Data from the 1979 sampling will be correlated with current data to investigate the possible similarities between the contaminants we had in 1979 and the contaminants that we have found as a result of Gloria. Although we do not believe it is possible at this time to make the statement that new dumping did not occur and that the waste that came out of the tunnel indeed was the identical waste deposited in it in 1979, there are similarities, and we can review them with you.

We will have to do a fair amount of successive monthly samplings to determine with some certainty whether the similarities indeed recognize the adequate waste.

Our Region III office approved an expenditure of an additional $250,000 at this site for continued site control and stabilization on October 4, and once that stabilization has been achieved, the data that is gathered will be evaluated to determine what additional actions are warranted.

That brings me to the current situation. I have discussed the situation with the new Assistant Administrator at EPA, Mr. Winston Porter, and with the regional administrator, Jim Seif.

They have authorized me to report to you that, first, Mr. Seif, the regional administrator, will nominate Butler Tunnel for inclusion on the national priority list at the next expected update, which should be sometime by the end of this year; and that second, Mr. Porter will indeed not only accept that nomination but include that site with the additional ones that are currently undergoing agency review as part of that rulemaking pacakge.

Once the site is identified on the national priority list for proposed comment, which is a process we go through for all sites, we also will in fiscal year 1986, on the assumption that funds are available, begin the necessary remedial investigation and feasibility study to select further remedies at that site.

The immediate concern, however, is the quantity of material that has been discovered in the last 10 days or so at primarily bore hole location No. 10, some 70,000 gallons of water and oily waste that some have suggested may be in a position to be discharged into the Susquehanna should some force cause that.

We would like to focus particular attention on that immediately. One problem that we have, very frankly, is that of funding. The current situation with respect to Superfund is that we have for the

BEST COPY AVAILABLE

first quarter of this fiscal year $8 million available for the country to deal with emergency removal actions.

Mr. FLORIO. You say for which quarter?

Mr. HEDEMAN. For the first quarter of this fiscal year because of the funding situation, which is obviously tied into the reauthorization problem.

Mr. FLORIO. The last time we talked to Mr. Thomas, if I recall correctly, he talked to us about $125 million that would be made available for emergency response capability as a result of his deferral of actions.

Mr. HEDEMAN. He was talking about $125 million that is being very closely apportioned for the entire fiscal year. I am just talking about the quarter. I am saying, as we have divvied that up, we have essentially said——

Mr. FLORIO. Four quarters at $8 million does not make $125 million.

Mr. HEDEMAN. There has to be money to continue the ongoing work we have at sites, rather than to stop that work. We have to have money to continue to employ the people at the Federal and State level who are in this program. Certainly, one option would be to begin to reduce them in force. We do not want to do that. So their salaries must be paid.

If you feel that $125 million is available in this country to dedicate exclusively to emergency work, that is not correct and that is not what Mr. Thomas has referred to. He has said that we will use that money sparingly. All we have is $125 million, and of that $125 million, roughly $32 million of it has been earmarked for emergency responses of this nature, and additional amounts to continue enforcement work.

Now, what I am saying to you is that the region has prepared and has not yet forwarded to headquarters but is in the process of preparing a request for additional moneys at Butler Tunnel that may range between $1 million and $3 million for the first quarter. Now, that essentially is a lot of money dedicated out of a national account of $8 million.

Mr. FLORIO. Are you at liberty to tell us what that $1 million to $3 million, did you say, is for?

Mr. HEDEMAN. The $1 million to $3 million would be dedicated to attempting to remove the 70,000 gallons if, indeed, that is the quantity, the volume we are talking about, of oily contaminated waste from the vicinity of the Butler Tunnel opening, in order to remove or reduce the likelihood, obviously, that it would be released into the Susquehanna River.

Hoping that Congress is able to deal with the reauthorization issue in a reasonable period of time, I have been in contact with the U.S. Coast Guard today and initiated discussions with them as to whether or not they would be willing to allow us to use money again out of section 311(k) of the Clean Water Act fund for this site. That fund, however, has only $14 million in it at this time.

But I have received some signals of willingness and cooperation out of the Coast Guard, and the commitment that the agency will make to you is that we will find a way to deal with this immediate situation, one way or the other, but that as time languishes with

BEST COPY AVAILABLE

respect to reauthorization, we do have a concern that other "Butler Tunnels" may emerge and that our options may not be as good.

The third thing I want to point out is the position of the agency on a situation such as this today. We proposed changes to the national contingency plan earlier this year—and I think your remarks in your opening statement alluded to them—in which we asked for public comment on the criteria that we would consider in deleting a site from the national priority list. We received some comments on that, though not that many, frankly.

But we have changed slightly those criteria in response to those comments, and the national contingency plan was finalized last week. I have been unable to brief your staff on those changes because of their involvement in the reauthorization. But I would be happy to get into any questions you have on that.

One significant change that has been taken in that is the statement that any site that gets on the national priority list through the rulemaking/public comment effort retains that status in perpetuity and that while we may delete the site from the list for purposes of identifying what we think is an acceptable remedy, should a subsequent event such as the Butler Tunnel event occur, the site would automatically be replaced back on the list without any further need for rulemaking or commenting.

Mr. FLORIO. So that means that we have multiple lists? We have a list of something that was on the list and is off the list and is now on some sort of a separate list that goes back onto the list if there is an occurrence?

Mr. HEDEMAN. Right, because we have been sensitive to the fact that there are remedies that in our best technical judgment may work but that there may be such issues as a force majeure or some other event that may change the remedy and we do not want to have to go through the delays associated with the rulemaking process to get the site back on the list.

Mr. FLORIO. Was any thought given to the proposal that was offered by some that something stays on a list until there is a permanent solution and it is only then that a site comes off of the list when somebody certifies that it truly——

Mr. HEDEMAN. We had some thought that I think reasonable men are going to constantly differ overtime as to what is a permanent solution, and there are going to be situations in which even you and I would agree that a permanent solution at the site had occurred, then something could change.

Having thought that out, it was our judgment that it would be better through rulemaking to establish a process in which a site, once on the national priority list, retained that status in perpetuity because one can simply not forecast, I don't think, with a total degree of assurance at any of these sites, no matter what our intentions are, what the solution, how effective the solution will or will not be in the future.

Another issue I would like at least to present to this committee, because you indicated you wanted to use this as a case study to ponder, relates to the bore hole issue.

I certainly feel that if we were to implement a remedy at the Butler Tunnel through the process that I have announced today, that we would have to pay a great deal of attention not only to the

BEST COPY AVAILABLE

source of the contamination in the tunnel in attempting to find the source of the contamination, but also to deal with the bore holes, not only the hundreds of bore holes in the immediate vicinity of Butler Tunnel, but the thousands of bore holes elsewhere.

We have a predicament with Superfund. We have a court ruling that came down 1 month ago that has essentially opined that the authorities of Superfund do not give the Federal Government the authority to go onto private property and implement any kind of remedial action.

We have discussed this decision with your staff and with the staffs of the other committees, but I would ask you to ponder that because I do not believe, should we proceed as I think we will and should at the Butler Tunnel in the years to come, that we would be able to implement a totally effective remedy without the opportunity to gain access onto private property to do such things as the bore hole checking.

Mr. FLORIO. On that point, you are saying—which decision are you talking about?

Mr. HEDEMAN. There is a decision coming out of—I forget which circuit—relating to the Waukeegan Harbor, IL, remedy. We selected a remedy that requires us to go onto the property of the responsible parties and essentially remove initially to do design testing, test bore, test boring and things of that sort, but ultimately to build a disposal facility on the property of the responsible party in which the PCB's will be extracted from the Waukeegan Harbor and put into.

The responsible parties in this decision that came down about 1 month ago—3 weeks ago—were able to get a circuit court ruling to the effect that unless there is an imminent and substantial emergency, screaming emergency-type threat, the Federal Government under the authorities of CERCLA does not have the authority to go onto private property for access for any testing, for any design, development of remedies, or anything of that sort.

Mr. FLORIO. Putting aside whether the court decision holds that or is just dicta——

Mr. HEDEMAN. We are going to try to appeal it. It appears to be showing up now with respect to a number of enforcement actions at other sites.

Mr. FLORIO. It is brought to my attention again that the worst problem is contained in the legislation working its way through. Even the competing pieces of information deal with that.

Mr. HEDEMAN. The Justice Department does not think that.

Mr. FLORIO. Does not think it is in the——

Mr. HEDEMAN. That is right.

Mr. FLORIO. That is interesting. We will make sure that whatever ends out of this deals with that problem.

You have questions then about your capability of bringing an action, a remedial action to order that type of remedial response?

Mr. HEDEMAN. I have no questions in terms of providing orders, but the question of attaining physical access to private property has been very clearly dealt with in the circuit court decision, orders notwithstanding.

That would basically conclude my remarks. I and my colleagues would be happy to get into any questions you have.

[The prepared statements of Mr. Hedeman and Mr. Massey follow:]

BEST COPY AVAILABLE

TESTIMONY
OF
WILLIAM N. HEDEMAN, JR.
DEPUTY ASSISTANT ADMINISTRATOR
OFFICE OF WATER
BEFORE
THE SUBCOMMITTEE ON COMMERCE, TRANSPORTATION AND TOURISM
COMMITTEE ON ENERGY AND COMMERCE
U.S. HOUSE OF REPRESENTATIVES

OCTOBER 23, 1985

I AM WILLIAM N. HEDEMAN, DEPUTY ASSISTANT ADMINISTRATOR FOR WATER; UNTIL LAST WEEK I WAS THE DIRECTOR OF THE OFFICE OF EMERGENCY AND REMEDIAL RESPONSE, THE PROGRAM OFFICE WITHIN EPA THAT MANAGES THE SUPERFUND PROGRAM.

I AM HERE TO DISCUSS THE BACKGROUND AND THE STATUS OF THE LISTING OF THE BUTLER TUNNEL SITE ON THE NATIONAL PRIORITIES LIST.

IN 1981, EPA DEVELOPED A PRELIMINARY LIST OF SITES WHICH IT BELIEVED SHOULD BE ELIGIBLE FOR SUPERFUND RESPONSE PENDING THE FORMULATION OF THE STATUTORY LIST OF AT LEAST 400 SITES. THIS LIST WAS CALLED THE "INTERIM PRIORITY LIST" AND WAS ANNOUNCED ON OCTOBER 23, 1981. EPA TOOK EXISTING INFORMATION AND DETERMINED THAT 115 SITES SHOULD BE LISTED ON THIS INTERIM LIST. BUTLER TUNNEL WAS ONE OF THESE 115 SITES. THE BASIS FOR SELECTING BUTLER TUNNEL WAS INFORMATION FROM THE THEN-RECENT COMPLETION OF EMERGENCY CLEAN WATER ACT ACTIONS TO STABILIZE THE SITE AND MONITOR THE TUNNEL DISCHARGE. ALTHOUGH THERE WAS NO LONGER A CONTINUING RELEASE TO THE ENVIRONMENT, SINCE THE STABILIZATION ACTION AND INSTALLATION OF THE MONITORING SYSTEM HAD BEEN COMPLETED WITHIN THE PAST YEAR, IT WAS BELIEVED THAT THE SITE SHOULD BE PUT ON THE LIST IN CASE A FURTHER RESPONSE WAS NECESSARY.

BEST COPY AVAILABLE

DURING 1982, EPA PREPARED DOCUMENTATION FOR THE FIRST FORMAL PROPOSAL OF THE NATIONAL PRIORITY LIST (NPL). HAZARD RANKING SYSTEM (HRS) SCORES WERE DEVELOPED FOR MANY SITES, INCLUDING THE FOR BUTLER TUNNEL. BECAUSE THERE WAS AN OBSERVED RELEASE OF HAZARDOUS SUBSTANCES TO THE SURFACE WATER DURING THE 1979-80 INCIDENT WHICH COULD HAVE HAD AN IMPACT ON THE POPULATION SERVED BY THE WATER SUPPLY SYSTEM OF THE CITY OF DANVILLE, THE SITE WAS TENTATIVELY SCORED AT 45.55 ON THE HRS. THIS SITE WAS SUBMITTED TO EPA HEADQUARTERS FOR REVIEW ALONG WITH ALL THE REGION III CANDIDATE SITES IN THE LATE SUMMER OF 1982.

EPA ALSO DECIDED TO PROPOSE LANGUAGE ON PROCEDURES TO DELETE SITES FROM THE NATIONAL PRIORITIES LIST WHEN IT PROPOSED THE NPL IN 1982. GUIDANCE TO THE REGIONS DATED JUNE 20, 1982, PERTAINING TO ESTABLISHING THE NPL STATED THAT ANY SITES WHICH MET DELETION CRITERIA WHICH EPA WAS TO PROPOSE SHOULD BE IDENTIFIED BY THE REGIONS AND A MEMO WITH DOCUMENTATION BE FORWARDED TO OERR. ONE OF THE CRITERIA FOR DELETION WAS THAT EPA HAD DETERMINED THAT NO FURTHER COST-EFFECTIVE RESPONSE ACTIONS COULD BE TAKEN AT THE SITE.

BY LATE 1982, ALMOST TWO YEARS HAD PASSED SINCE THE INSTALLATION OF THE MONITORING SYSTEM AT BUTLER TUNNEL WITH NO SIGNIFICANT DISCHARGES OF HAZARDOUS SUBSTANCES. REGION III BELIEVED THAT 1) THE SOURCE OF CONTAMINATION WAS IDENTIFIED IN THE PAST RESPONSE ACTION, 2) THE RESPONSIBLE PARTIES WERE PROSECUTED AND FINED AND THEIR OPERATIONS CEASED, 3) STABILIZATION ACTIVITIES HAD RESULTED IN SIGNIFICANT ABATEMENT OF POLLUTION AND HAD BEEN COMPLETED FOR OVER TWO YEARS, 4) NO SIGNIFICANT RELEASES OF HAZARDOUS SUBSTANCES HAD OCCURRED OVER THAT TWO YEAR PERIOD, AND THE DISCHARGE OF CONTAMINANTS WAS AT AN ACCEPTABLY LOW LEVEL AND WAS BEING CONTINUALLY MONITORED, AND 5)

BEST COPY AVAILABLE

NO FURTHER REMEDIAL ACTION WAS WARRANTED AT THAT TIME. THEREFORE, ON DECEMBER 10, 1982, REGION III FORWARDED A MEMO TO THE OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE WHICH REQUESTED THAT THE BUTLER TUNNEL NOT BE FORMALLY PROPOSED ON THE NPL.

IN THE DECEMBER 20, 1982, PROPOSAL OF THE NPL, BUTLER TUNNEL WAS DISCUSSED IN THE PREAMBLE. EPA STATED THAT ALL APPROPRIATE FUND-FINANCED CLEANUP HAD BEEN COMPLETED AT THE SITE, AND, THEREFORE, THE CRITERIA FOR DELETION HAD BEEN MET. THE BUTLER TUNNEL SITE WAS NOT PROPOSED ON THE NATIONAL PRIORITIES LIST.

ALMOST THREE YEARS HAD PASSED FROM THE 1982 PROPOSAL, AND ALMOST FIVE YEARS FROM THE CLEAN WATER ACT RESPONSE WHICH STABILIZED THE SITE, WHEN THE RAINS ASSOCIATED WITH HURRICANE GLORIA CAUSED ANOTHER RELEASE FROM THE BUTLER TUNNEL. THE RELEASE OF HAZARDOUS SUBSTANCES HAS SINCE BEEN REDUCED SIGNIFICANTLY. EPA HAS BEEN COLLATING THE DATA IT IS RECEIVING FROM THE EMERGENCY RESPONSE ACTIVITIES CURRENTLY UNDERWAY AND WILL EVALUATE IT TO DETERMINE IF THE BASIS USED IN 1982 FOR DELETION FROM THE NPL REMAINS APPROPRIATE. IF IT DOES NOT, THE AGENCY IS PREPARED TO MOVE EXPEDITIOUSLY TO DO WHAT IS NECESSARY TO ALLOW FURTHER WORK AT THE SITE.

THANK YOU, MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE. I WILL BE GLAD TO ANSWER ANY QUESTIONS.

BEST COPY AVAILABLE

STATEMENT OF

MR. THOMAS I. MASSEY

CHIEF, EMERGENCY RESPONSE SECTION

ENVIRONMENTAL PROTECTION AGENCY

REGION III

BEFORE THE SUBCOMMITTEE ON

COMMERCE, TRANSPORTATION & TOURISM

U.S. HOUSE OF REPRESENTATIVES

OCTOBER 17, 1985

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

GOOD MORNING. MY NAME IS TOM MASSEY AND I AM CHIEF OF THE EMERGENCY RESPONSE SECTION OF EPA REGION III. I SUPERVISE EPA'S IMMEDIATE RESPONSES TO ENVIRONMENTAL RELEASES UNDER THE AUTHORITIES OF SUPERFUND SECTION 104 AND SECTION 311 OF THE CLEAN WATER ACT. I WAS EPA'S ON-SCENE COORDINATOR AT THE BUTLER MINE TUNNEL, PITTSTON, PENNSYLVANIA, DURING THE 1979-1980 AND 1985 RELEASES TO THE SUSQUEHANNA RIVER. WITH ME TODAY IS DR. JOE LAFORNARA OF EPA'S ENVIRONMENTAL RESPONSE TEAM. DR. LAFORNARA ASSISTED ME IN RESPONDING TO BOTH RELEASES.

THE BUTLER TUNNEL DRAINS MILES OF DEEP MINE WORKINGS, AND HAS BEEN IN USE FOR MORE THAN 50 YEARS. BILLIONS OF GALLONS OF WATER HAVE ACCUMULATED IN MANY MINE POOLS. IN LATE JULY 1979, AN OILY DISCHARGE FROM THE TUNNEL TO THE SUSQUEHANNA CREATED A SIGNIFICANT OIL SLICK. STATE AND EPA RESPONSE PERSONNEL DETERMINED THAT TOXIC WASTE WAS INCLUDED IN THE OILY DISCHARGE OF APPROXIMATELY 1,000 GALLONS PER DAY (GPD). THIS INCLUDED SEVERAL CARCINOGENS SUCH AS DICHLOROBENZENE (DCB), AND IT WAS SUBSEQUENTLY DETERMINED THAT VERY LOW LEVELS OF CYANIDE COMPOUNDS WERE

BEST COPY AVAILABLE

CONTAINED IN THE WATER DISCHARGE. BETWEEN JULY 1979 AND MARCH 1980 THERE WERE SEVERAL PERIODS OF ELEVATED DISCHARGE.

UNDER SECTION 311 OF THE CLEAN WATER ACT — SUPERFUND HAD NOT YET BEEN ENACTED — STEPS WERE TAKEN TO CONTAIN THE DISCHARGE WITH FILTERING DEVICES, BOOMS AND SKIMMERS. BECAUSE THESE TECHNIQUES WERE NOT AS EFFECTIVE AS I HAD HOPED, A STILLING BASIN WAS CONSTRUCTED IN THE TUNNEL RUNWAY AND RIVER BANK TO REDUCE THE VELOCITY OF THE DISCHARGE AND IMPROVE THE EFFICIENCY OF THE SEPARATION PROCESS. A SERIES OF BOOMS WERE DEPLOYED BOTH NEAR THE TUNNEL MOUTH AND DOWNSTREAM, WITH DYE TESTS ASSISTING US IN PLACING THE BOOMS. BY AUGUST 10TH THE CONTAINMENT AND REMOVAL OPERATION REACHED ITS PEAK AND SUCCESSFULLY CONTAINED THE SHEEN TO WITHIN ONE-HALF MILE OF THE TUNNEL. AS A RESULT, WHEN COMBINED WITH POWDERED ACTIVATED CARBON TREATMENT AT ITS WATER TREATMENT PLANT, THE DOWNSTREAM DANVILLE WATERS SUPPLY WAS NOT AFFECTED BY THE DISCHARGE. IN TOTAL, APPROXIMATELY 163,000 GALLONS OF OILY WASTE CONTAINING ALMOST 13,000 POUNDS OF PCB WERE RELEASED AND LARGELY CONTAINED, AT A COST OF APPROXIMATELY $2.5 MILION FEDERAL AND $800,000 STATE DOLLARS.

BECAUSE OF THE SUBSTANTIAL DISCHARGES IN SEPTEMBER 1979 AND MARCH 1980, COUPLED WITH THE SUBSEQUENT PRESENCE OF CYANIDE WASTES IN THE MINE ENVIRONMENT, I DECIDED TO DEVELOP OPTIONS FOR CONTROLLING THE DISCHARGE. TWO GENERAL ALTERNATIVES WERE INVESTIGATED: TREATMENT AT THE TUNNEL MOUTH AND LOCATION AND POSSIBLE REMOVAL OR CONTROL OF THE SOURCE OF THE CONTAMINATION WITHIN THE 5.5 SQUARE MILE AREA. SEPARATE CONTRACTOR STUDIES WERE CONDUCTED TO ASSIST EPA IN DECIDING WHICH APPROACH TO TAKE. I UNDERSTAND THAT THE HYDROGEOLOGICAL REPORT HAS BEEN PROVIDED TO THE SUBCOMMITTEE. THIRTEEN BOREHOLES WERE DRILLED IN ATTEMPTS TO LOCATE THE SOURCES,

BEST COPY AVAILABLE

AND WERE NOT SUCCESSFUL. WE CONCLUDED THAT THERE WAS A LOW BUT CONTINUING PROBABILITY FOR A SLUG DISCHARGE OF FLOATING RECOVERABLE WASTE, AND IN DECEMBER 1980 INSTALLED AN AUTOMATED EARLY WARNING DETECTION SYSTEM. THE SYSTEM WAS OPERATED UNTIL JULY 1984 BY THE PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES, AND WAS DEACTIVATED BECAUSE NO SLUGS WERE DETECTED IN ALMOST FOUR YEARS OF MONITORING.

I WOULD NOW LIKE TO DISCUSS OUR RESPONSE TO THE RECENT RELEASE WHICH BEGAN LAST MONTH.

ON SEPTEMBER 27, 1985 ANOTHER SUDDEN DISCHARGE FROM THE BUTLER MINE TUNNEL OCCURRED FOLLOWING VERY HEAVY RAINS ASSOCIATED WITH HURRICANE GLORIA. OVER 100,000 GALLONS OF OILY SUBSTANCE WERE RELEASED FROM THE TUNNEL. EPA RESPONDED UNDER SECTION 311 OF THE CLEAN WATER ACT UNTIL ON SEPTEMBER 30, SAMPLING RESULTS CONFIRMED THE PRESENCE OF BIS (2 ETHYL HEXYL) PHTHALATE IN THE OILY DISCHARGE. THIS SUBSTANCE, WHICH IS CLASSIFIED AS A HAZARDOUS SUBSTANCE AND IS REPORTABLE UNDER CERCLA, ALLOWED THE CLEANUP TO BE CARRIED OUT AS A CERCLA EMERGENCY REMOVAL ACTION. APPROXIMATELY 25,000 POUNDS OF BIS (2ETHYL HEXYL) PHTHATE WAS DISCHARGED FROM THE TUNNEL BETWEEN SEPTEMBER 27 TO OCTOBER 1. THERE IS CURRENTLY AN INTERMITTENT OILY SHEEN DISCHARGE WHICH CONTAINS 1-3% BIS (2 ETHYL HEXYL) PHTHALATE. IT IS ASSUMED THAT APPROXIMATELY 1.5 POUNDS OF BIS (2 ETHYL HEXYL) PHTHALATE ARE BEING DISCHARGED DAILY INTO THE WATER, HARBOR BOOMS ARE IN PLACE IN ANTICIPATION OF ANY FUTURE SUDDEN RELEASE.

THE COST OF CLEANUP WORK AT THE TUNNEL TO DATE INCLUDES APPROXIMATELY $2.5 MILLION SECTION 311 CLEAN WATER ACT MONEY SPENT IN 1979-1981. THE SECTION 311 MONEY SPENT FROM SEPTEMBER 27, 1985 TO SEPTEMBER 30, 1985 IS APPROXIMATELY $45,000; THE PRESENT CEILING UNDER CERCLA IS AUTHORIZED AT $300,000.00.

BEST COPY AVAILABLE

Mr. FLORIO. Let me thank you for your testimony and first of all acknowledge the presence of Mr. Massey, who has a degree of longevity at EPA that is not shared with everyone. I can recall him being on the scene when I went there in 1979–80, and of course, he was there again this last weekend when we went to the scene.

Mr. Massey, I have also had the opportunity to read through some of the reports that were filed as a result of the 1979 spill as well as the ones that are being put in now.

In the report that was signed by you there is a statement that there is a continuing probability of another discharge—this is after the 1979 spill—in light of the probability, it is not a possibility, it is a probability.

In light of what Mr. Hedeman just indicated to us—and verify this—if it is the case, it is 61,000 gallons accumulated after the 1979 spill, and the record as I recall it at that time—and modified, if it has been changed—is that there were 2 million gallons that the State officials had accounted for going into the site on the basis of their records of the prosecutions, that they were taking an expectation that it is far in excess of that.

With your conclusion about the probability of a spill, with the circumstantial evidence of only having accumulated 61,000 gallons when we know there are at least 2 million gallons, isn't it reasonable for any of the panelists to say that this is not something that we can walk away from with no expectation that we would not have a recurrence of the same type of problem that we had in 1979? Is it unreasonable to think that there would be a recurrence in light of the assumption that there is going to be—there is a probability of a spill? We have more that we know of that has been accounted for coming out.

What is it that could conclude—we could conclude that this was a cleaned-up site?

Mr. MASSEY. My operations in 1979 and 1980, I believe my report contends that it was about 162,000 gallons that we felt was discharged.

Mr. FLORIO. You contained 61,000. I assume the balance went into the river?

Mr. MASSEY. So it was a figure of 162,000. That is what we had estimated had left from the first day that I was on the scene in 1979. The information that we had received commencing the first date I was on the scene in July 1979 was ongoing since investigations by primarily State personnel and the witnesses that were assembled by State people indicated that there could be—there was 8 million gallons that had left the terminal in Syracuse, NY, destined to go some place, and the information we received that with a level of, I guess, an investigative statement that 2 million gallons were known to have arrived in Pittston.

In talking in depth with the investigators of the State, there was an ongoing trial. In fact, it was a convened grand jury. It was very difficult to attain how much oily waste was dumped. We needed that figure to help us evaluate what was happening at the tunnel discharge.

BEST COPY AVAILABLE

Mr. FLORIO. Is it fair to say that what you are telling us is that the 2-million is a conservative figure, and probably is not less than that, and it may be more than that?

Mr. MASSEY. Here again we are a recipient of the information from State people, and from what I gather from their investigation there could be a range, yes, between 2 and 8 million gallons. We had concluded our operations with a figure that we had estimated that we lost 162,000 through the discharge, which we are only able to collect, I believe it was, 62,000 through a filtering system.

So one would make a subtraction from that and have an assumption that the 5.5 square miles of mine workings only enter at one place into the environment at the river, excluding the venting of the many thousands of bore holes.

Mr. FLORIO. Is it unreasonble to say that your evaluation of the probability of a discharge with so much still unaccounted for, not in any way to diminish the possibility of more being added, that right down to this point today, that that probability of another discharge under the same circumstances—hurricane, rains, strong winds—is still there today?

Mr. MASSEY. Mr. Hedeman gave you the latest report which we received from our expert consultant, and just yesterday he indicated that in bore hole 10, which we discussed earlier, there is a concentrate of similar chemical and an exact match of what was discharged in just this year. And in the bore hole there is a connection. We found the same BIS 2 ethyl hexyl phthalate in the bore hole 10, and being discharged into the Susquehanna, that material which we found in there, very viscous, heavy oily material, we don't have it as we talk now really whether it is 1 inch or 4 inches, and it is only speculation on our part, ongoing in our testing.

But we feel it is a poised threat of a situation as it exists today. And as Mr. Hedeman indicated, the region has received a further request to remedy that situation—I should say, control and stabilize that situation—under the removal program.

Mr. FLORIO. That is an important distinction between remedying it and control. And it gives me an opportunity to shift to the Rita Lavelle memo. The memo concludes—and ultimately, Mrs. Lavelle apparently and, I assume, Mrs. Burford ultimately signed off on the fact—that this should be removed.

The rationale contained in the memo is on the basis of three things that took place: "Emergency actions already undertaken have resulted in significant abatement of pollution from the tunnel, current discharge of contaminants from the tunnel is an acceptable level, and that no further remedial action is warranted."

Without getting too technical, but I think the record has to be made clear, we are talking about two totally different standards: the Clean Water Act standard, and the Superfund standard, which apparently was never used either by the people that were evaluating this—that is, the Superfund standard was never used, because, as you have indicated in your testimony, and others—there has been no even preliminary feasibility study to determine remedial action at the point where the problem is caused.

And the Clean Water Act standard really is designed to deal with the pollution of surface water. When we say that no further remedial action is warranted, that implies that some remedial

BEST COPY AVAILABLE

action was undertaken. There was no Superfund remedial action designed to clean up the site.

That is the problem that caused the surface water contamination. Is that correct, Mr. Massey? You are in charge of containment. You are in charge of emergency response. You are not in charge of remedial action, implementing it, or even formulating it? That is the case?

Mr. MASSEY. That is correct.

Mr. FLORIO. Was there anyone else that you know of—and, Mr. Hedeman, feel free to contribute—was there anyone else who in any way was contracted with or went onto the site to evaluate remedial measures under Superfund at the point right after Superfund was implemented. Before the decision to delist or not to list was made, so as to prompt this memo being regarded as something more than just someone's evaluation that we're going to walk away from the site?

Mr. HEDEMAN. Let me try to shed some light on that by first pointing out that in that timeframe in terms of the program which was in 1982——

Mr. FLORIO. December 10, 1982, is the date on the memo.

Mr. HEDEMAN. The agency had taken no position as to how clean—as to what was clean and what was not, the so-called how-clean-is-clean issue. It was fairly general.

Mr. FLORIO. You had the Mitre model in operation.

Mr. HEDEMAN. Perhaps I can give you a sequence of events that may bring something into order. On June 28, 1982, I signed a memorandum to the regions, setting into motion a process to nominate sites for the formal national priority list, which I refer to in my testimony.

I also identified in there various criteria that we were working with at the time to consider sites for deletion. Those criteria are part of the memoranda which I would like to submit for the record. I think it would help.

I talked to your staff this morning. They do have a copy of that.

Mr. FLORIO. Guidance document dated June 28, 1982.

Mr. HEDEMAN. That is correct.

Mr. FLORIO. Fine. Which is used as reference by Mr. Bibko to Mrs. Lavelle to justify the removal of this site.

Mr. HEDEMAN. One of the criteria is that EPA has determined that no further cost-effective response actions can be taken at the site. And another criteria is that EPA, in consultation with the State, has determined that responsible parties have completed cleanup such that no publicly funded response actions will be required.

In any event, having laid out those criteria, the memorandum called for sites to be nominated both for inclusion and deletion from the national priority list, I think, by September 17, 1982.

And the regions complied and proceeded to dispatch their list of sites for my office to consider and, during that process, to apply the hazardous-ranking system which had become part of the existing national contingency plan in a uniform basis.

We went through that process, and I prepared a memorandum to Mrs. Burford, which I signed and sent to her on December 8, 1982, which your committee has a copy of. That identified the sites that

BEST COPY AVAILABLE

we felt should be included on the first formal national priority list as well as the sites that would be candidates for deletion. That memorandum did not include Butler Tunnel.

Mr. FLORIO. The memorandum for deletion?

Mr. HEDEMAN. Butler Tunnel. Two days later, Mr. Bibko sent to Ms. Lavelle a memorandum calling for the deletion of Butler Tunnel that you have referred to. And I can tell you that I, frankly, and everyone associated with the national priority list had no discussions that I can ever recall on Butler Tunnel. It simply found itself on the deletion list.

The sessions that I have had with my staff indicate that they put it on there because they felt that would be the logical course of action as a result of the Bibko-Lavelle memorandum.

But in fairness to Mrs. Burford, she takes a lot of lumps, and there is no knowledge that she had of Butler Tunnel.

Mr. FLORIO. I assume, though, that she had to sign off, didn't she?

Mr. HEDEMAN. Mrs. Burford signed off on my December 8 memorandum, and that memorandum did not call for delisting Butler Tunnel.

Mr. FLORIO. What we have is a situation where the same guidance document is used to evaluate whether a site is listed or delisted. And we have you as the program head—what was your capacity at that time?

Mr. HEDEMAN. The program head.

Mr. FLORIO. Arriving at the decision not to delist, and then we have a regional person working with Mrs. Lavelle, who was the overall program manager, arriving at the opposite conclusion, using the same guidance document criteria. Is that the case?

Mr. HEDEMAN. I don't think that is a proper characterization. I guess what I am saying is that all nominations were to be in from the region for either inclusion or deletion from the national priority list, as you can see from this guidance document I signed, by September 17, 1982.

Mr. FLORIO. The memorandum, though, says, "In accordance with the June 28, 1982, guidance document, submitting the formal request."

Mr. HEDEMAN. In that document is a schedule, and one of the items is the schedule is that regions must submit all nominations for the national priority list and all deletions by September 17, 1982.

What I am saying to you is that that process occurred. My staff, with all of those submissions, compiled a final master list, that I transmitted that to Mrs. Burford on December 8, and that 2 days later Butler Tunnel wandered into the process.

Mr. FLORIO. I appreciate the fact that that is the dilemma we are in, how things wander in or wander out, theoretically all from the same objective criteria. That is, in a sense, almost the point of our hearing, that if we have that degree of subjectiveness to determine whether something is clean or not clean, there is a dilemma. That is something that should not be left to the whim of anyone, whether it is Mrs. Lavelle, Mr. Bibko, yourself, or Mrs. Burford.

We have to have some certainty. You heard the citizens here expressing their unhappiness about the assurances that they thought

BEST COPY AVAILABLE

they had that this was something that was clean. What we're trying to do is figure out how we get some objective, verifiable standards to determine what it is that is clean.

For example, in this memo to Mrs. Lavelle, it says the current discharge of contaminants from the tunnel is at an acceptable level. Did you make a determination in ultimately signing on that that was the case or not? And if you did or did not, what is it you were using to determine what is acceptable? Acceptable about, against what? The Safe Drinking Water Act?

Mr. HEDEMAN. One point I would make, in 1982, when those judgments were made, the agency had not taken any position as to what was an acceptable level. We essentially deferred that to the regional administrator to make and provide a process for him to transmit that. Things have changed. The national contingency plan that we finalized last week does, in our judgment, present what we think is acceptable levels. And among others, it would be that the remedy must meet or exceed applicable or relevant and appropriate Federal public health standards.

Mr. FLORIO. What you are telling us is that this system, which appears to be somewhat deficient in that it is so subjective, has been the system that we have used in evaluating these things up until the December 10—the October 10 of this year, when you changed it 2 weeks ago.

Mr. HEDEMAN. The final disposition of the NCP as a formal matter occurred last week, and is essentially reflective of how the agency has been proceeding in a reasonably informal but structured manner for the last 2 years. I would say that while the NCP was formally finalized in the last week, the process we go through and the guidance that we have followed has mirrored that for the last 2 years.

I would point out that there have been no sites proposed by the agency for deletion since the six, including Butler Tunnel, were announced on December 20, 1982.

Mr. FLORIO. In your change of last week or 2 weeks ago, did you change the mitre model?

Mr. HEDEMAN. The issue at Butler Tunnel is that it did have a mitre model score given to it of about 45.

Mr. FLORIO. And the threshold is 28. So that is a substantial ranking above that cutoff point for inclusion.

Mr. HEDEMAN. That is correct, and notwithstanding that the decision was made by the regional administrator that it be deleted from the interim priority list.

Mr. FLORIO. Let's cut to the heart of the issue. Why do you think that that took place?

Mr. HEDEMAN. I have no idea.

Mr. FLORIO. That is not comforting. What you have told us is that up until 2 weeks ago the same system was in place down to this point today, this same ranking system was in place. And I suspect if we went out and ranked it, there is no reason to believe that the ranking would be different, is there? It would still get a 48 percent ranking. You have made the commendable announcement that you are going to put it back on the list.

BEST COPY AVAILABLE

Mr. HEDEMAN. While it has not been requality-assured, I feel confident that the site will be proposed on the national priority list on the next update.

Mr. FLORIO. Let me shift for a moment to another area. You also said that you hoped you would have even $1 to $3 million. I think this is what you said, for some work to deal with this pool at the tunnel site.

Reading through Mr. Massey's recommendations of 5 or 4 years ago, he recommended that we spend—and it was rejected apparently because it was too costly—$1.2 million, I believe—I am sorry, $2 million, construction costs, to deal with the mother lode problem associated with the tunnel exit of the material. And it was rejected as being too costly at that point.

I assume, with hindsight, now that you seem to be suggesting we should do that same thing, that if—

Mr. HEDEMAN. I am saying $1 to $3 million is going to be needed to remove a segment of the mother lode if indeed that is what is at the site of bore hole No. 10. By putting this site on the national priority list, we are going to embark upon, I think, a fairly rigorous study to attempt once again to determine where the mother lode or portions of it may be.

Mr. FLORIO. You are talking about $1 to $3 million of work at the point where we conclude the preliminary feasibility study, go to contract, formulate an operating and engineering plan for remedial action, and then start remedial work?

Mr. HEDEMAN. I am talking about $1 to $3 million will be necessary to remove that quantity of waste.

Mr. FLORIO. As part of the remedial action.

Mr. HEDEMAN. As a removal action which we are now able to do again as a result of these revisions to the national contingency plan. No RIF's, no cost-effective remedy; just if we can technically do it, go in there and technically remove whatever quantity of waste is at the tunnel mouth.

We are estimating that that will be $1 to $3 million, and we believe we have the authority now as a result of the NCP revisions to go in and do it as soon as we get the money or the situation is straightened out.

In addition, however, once the site is added to the national priority list, we are talking about the expenditure of additional money to do the site inspection, investigations, and try to again hone in on exactly where the rest of the mother lode is and what would be the most cost-effective way of dealing with it.

I personally do not feel—and I gather from the remarks that Mr. Kanjorski said this morning, nor does he—that it is realistically possible to suck out all of that mother lode from that mine. We may be talking about remedies that involve, for example, capping the bore holes, treating, putting up some sort of treatment device at the mouth of the tunnel so that if it does get released, it would be captured or treated, dealing with a potential emergency situation of the Danville water supply, and trying to remove the largest quantities of waste that we can physically get to in that mountainous area.

But none of us at this table have any clear idea as to what the remedy should be at this point in time. That is only going to be

BEST COPY AVAILABLE

available after the remedial investigation and feasibility study at the site is done.

Mr. FLORIO. Do you regard containment mechanisms or treatment facilities at the mouth of the tunnel as remedial actions or containment actions—or removal actions, rather?

Mr. HEDEMAN. In the generalized sense, I would regard them as very possibly a remedial type action.

Mr. FLORIO. The difficulty, of course, with that is that is going to take some time when, in fact, if we have another hurricane tomorrow, all of the evidence is clear that——

Mr. HEDEMAN. I see where you are coming from. In that sense, that is why I spoke generally. I would say, if our judgment was that that was necessary to abate and stabilize the site, we would do that as a removal action.

Mr. FLORIO. The difficulty—and I do not mean to be difficult here—the difficulty is we know how much went in, we know how much came out, we know what the problem is every time we have a problem of this sort. We heard from the fellow who was in charge of the water system 60 miles downriver, and is it that we have to wait until something happens to abate the problem?

Mr. HEDEMAN. No; I am giving you the assurance that that is not going to be the case.

Mr. FLORIO. If that is not going to be the case, I assume that Mr. Kanjorski would feel much more relieved if someone could tell him that the inevitability of this flow through the tunnel going downstream potentially is something that would dictate fairly quick action, however we categorize it—remedial or emergency removal—that will treat what it is that is coming out of that tunnel that is hazardous and deal with it in a way before——

Mr. HEDEMAN. Maybe I can explain it this way. We know we have a load of waste near the mouth of the tunnel. That load has to be dealt with first. And what we hope to be able to do is to remove that load through a Federal action before it gets to the mouth of the tunnel and is released.

We also know that there is probably other waste in that tunnel, but have no idea where it is or what it is. Some of it may have homogenized. Some of it may disperse. Some of the contaminants may have evaporated.

And to create a treatment device to deal with that effectively at the end of the tunnel would require us to first of all do much more intensive investigation as to what the source is, where the sources of contamination are in that tunnel, exactly what is left as a result of this dumping 6 years ago, what types of contaminants are we dealing with, and what type of filtration device therefore would be the most effective to put at the end of the tunnel.

While doing that, we are still going to be constantly monitoring whether there is another slug of the mother lode working its way toward the mouth. That will have to be dealt with, and this is perhaps realistic of so many of the Superfund sites we deal with. You have to essentially attack them from a variety of perspectives; one, the imminent and substantial threats; while still trying to deal with the long-term effort to make sure that the problem over time does not create a bad situation.

BEST COPY AVAILABLE

I am saying to you that I am announcing today that the agency is committed to doing both, notwithstanding a very serious concern about the money problems that will be associated with it.

Mr. FLORIO. Let me ask one last question. How many of the other five cleaned-up sites were cleaned up as a result of regional recommendations in the way that this one was cleaned up?

Mr. HEDEMAN. All of them were nominated by the regions. While I recognize that there is some controversy surrounding others, I have a much more comfortable feeling personally about the other five than I do this one.

Mr. FLORIO. You have "a comfortable feeling"? Does that translate into your willingness to certify that those sites are, in fact, sufficiently clean to be off of the Superfund list? Were those sites, by the way, interim listed sites?

Mr. HEDEMAN. Yes.

Mr. FLORIO. So there have really been no sites—zero sites—that have been onto the formal Superfund list after you started that process that had been taken off?

Mr. HEDEMAN. That is correct. There are eight in that status that we intend at this next update to propose for deletion.

Mr. FLORIO. So those of us who have been lamenting the fact that only six sites have been taken off of the Superfund list in the last 5 years have been overly generous in observations about EPA's record?

Mr. HEDEMAN. They were on the interim list of 160, and one could argue that instead of proposing 405 in December 1932, we would have only proposed 399.

Mr. FLORIO. What is the current update? 870?

Mr. HEDEMAN. 850 are now on the national priority list.

Mr. FLORIO. Let me yield to the gentleman from Pennsylvania.

Mr. KANJORSKI. Thank you very much, Mr. Chairman.

Mr. Hedeman, I am not sure I understand all of the testimony here today. I was not a Member of Congress when all of this happened. It seems to me I have some pretty good recollections.

Isn't this the period of time that this administration announced that it was cutting EPA funding by about 75 percent in its budgetary restraints?

Mr. HEDEMAN. It is a period of time in which there were cutbacks proposed in EPA's budget. I must say I do not recall the percentage.

Mr. KANJORSKI. Isn't it the period of time that Congress was questioning Mrs. Burford rather stringently as to how she could justify this cutback in light of the fact that the priority list was minimal in nature as to the complete cleanup and, in fact, they were not getting to the charge? And these six sites, cleaned-up sites, weren't they offered as evidence that EPA was moving along quite rapidly and had accomplished six sites within an 18-month period?

Mr. HEDEMAN. Yes, I would agree with that.

Mr. KANJORSKI. I am very disturbed. How do you lose Butler Tunnel?

Mr. HEDEMAN. How do you lose Butler Tunnel? It is a fairly technical issue. But what I am saying is that instead of nominating it for inclusion on the national priority list, the regional administra-

BEST COPY AVAILABLE

tor elected to request its deletion. I have been unable in the period of time I had to prepare for this hearing, and in the discussions I have had with my staff, to reconstruct any written record. So I am afraid I am not too much help to you on that.

Mr. KANJORSKI. Is this the period of time that there were documents that were missing from EPA, or shredded?

Mr. HEDEMAN. Not to my knowledge, my staff did buy a shredder, and I have no reason to believe that anything relating to Butler tunnel found its way into there. So I think I really would not make that association.

Mr. KANJORSKI. Are you placing the blame or the fault or the reasoning of why this did not get on the national priority list on regional recommendations? Is it EPA's regional office that is at fault here?

Mr. HEDEMAN. The guidance document that I signed essentially said that it would be a call by the regional administrator himself or herself as to whether a site would be nominated for inclusion on the national priority list. It was the judgment of then Mr. Bibko apparently that it should have been deleted.

Mr. KANJORSKI. It sounds like a nice nominating kind of process where we sit around a room or we say that, "I nominate Butler tunnel." Is that—doesn't everybody from Washington go up to Butler tunnel and maybe sneak around and see what's going on?

Mr. HEDEMAN. No.

Mr. KANJORSKI. They don't make personal——

Mr. HEDEMAN. I do not have the resources to go out to 20,000 sites in this country and sneak around.

Mr. KANJORSKI. Are there 20,000 sites on the priority list?

Mr. HEDEMAN. We estimate there will be 2,000. There is an inventory of 20,000. I used the 20,000 number because they would have to go to virtually every one of those to cull out the so-called 2,000 that we estimated would get on the national priority list.

Mr. KANJORSKI. When the Congress gets an announcement from your Agency that the site is going to be clean, we cannot rely that the highest echelon has certified that or determined it to be clean?

Mr. HEDEMAN. I think you can. I am not sure that I could feel——

Mr. KANJORSKI. Doesn't somebody have to get out there to do that?

Mr. HEDEMAN. There is a process that we now follow that involves a tremendous amount of community involvement—Government, State, local involvement, et cetera—in deleting sites. I would like to submit that, frankly, for the record so that you can have a full picture of what we do today and what we will have done when we announce these eight sites in the next month to delete them. And I think you will find a reasonable amount of assurance that everybody who could possibly be interested or involved in that has been. That did not exist in the first go-around.

Mr. KANJORSKI. What disturbs me, of course, is Butler. It's my district. 360,000 of my people are in direct contact with that problem, and millions of other Americans on downstream.

But it seems to me that—I am not an engineer, but if we know that 2 million gallons of something went in and only 200,000 came

BEST COPY AVAILABLE

out, doesn't it strike somebody to ask where the other 90 percent of that material is?

Mr. HEDEMAN. I think we tried to answer that question for a period of time, certainly to the tune of well over $2 million worth of studies and cleanups.

Mr. KANJORSKI. What was the conclusion?

Mr. HEDEMAN. Nobody could come up with an answer.

Mr. KANJORSKI. Didn't it strike anybody that it's still in there?

Mr. HEDEMAN. There is nobody who will not reasonably think that it is still in there. The issue is not is it still in there, the question is: Where is it?

Mr. KANJORSKI. If we know that, if we did not even decide to detoxify or remedial, how can we not monitor it?

Mr. HEDEMAN. I think as you perhaps recall, that is exactly what was going on until last year.

Mr. KANJORSKI. Who made the decision last year to decide that in 1984, since nothing more came out to account for the missing 1,800,000 gallons, why did they stop monitoring it then?

Mr. HEDEMAN. In your absence, I think, in your absence, the State testified that while they disconnected the telephone device, they did have someone who personally inspected the site daily. I am not in a position to know whether that did or did not occur.

Mr. KANJORSKI. That brings up my question. When you're talking about the monitoring, are you doing a chemical anslysis of the water every day at the Butler mine tunnel?

Mr. HEDEMAN. I don't think we're doing anything. The State had that responsibility from 1980 to——

Mr. KANJORSKI. Now. And at that time——

Mr. HEDEMAN. We are right now as a result of this incident. Mr. Massey's people are doing that.

Mr. KANJORSKI. Am I to assume that other than for the benzene material, that is perfectly pure water?

Mr. HEDEMAN. No.

Mr. MASSEY. Maybe I can handle that one. From the day we came up on September 27 to present, this day, people have been—lead and local—taking samples every 6 hours of the discharge both on the oily sludge and the water. And that has been tested on a daily basis.

Mr. KANJORSKI. Mr. Massey, the test, what does it declare? Does it declare that only the substance that we're looking for is not there, or does it tell us what the component parts of all of the molecules of that water is?

Mr. MASSEY. With me is Dr. Lafornara, and he can say some doctor things on it.

Mr. KANJORSKI. Doctor things. Can you tell us what do we know is coming out of the Butler mine tunnel?

Mr. LAFORNARA. In addition to monitoring for the DBC and now the BIS 2, the State also does a fingerprint-type analysis where they overlay the chromatograms, for lack of a less technical word, and match them day by day. The material is basically the same as it has been since the first day of this particular——

Mr. KANJORSKI. Are there any other products that may be included in that water that are dangerous to the public health?

BEST COPY AVAILABLE

Mr. LAFORNARA. The main ones have been identified. If you're talking--water itself is hazardous if you happen to be drowning in it.

Mr. KANJORSKI. Do we know all of the substances contained in the water?

Mr. LAFORNARA. As far as it is possible to analyze for them, yes. The detection limits, we cannot testify that something is not there at a part-per-quadrillion. In concentrations that would be harmful, yes.

Mr. KANJORSKI. Let me ask you this question. Assume the oily substance, which is obviously observable by sight—and I think because it flows to the surface, causes the noxious odors—assume that that was missing from the discharge, how else would we know whether something is coming out and permeating the water?

Mr. LAFORNARA. If there were no sheen on the water, is that what you're saying, how else would we know?

Mr. KANJORSKI. Yes.

Mr. LAFORNARA. Right now we would know by the analyses we did of the soluble, water-dissolved components.

Mr. KANJORSKI. Between 1982 and 1985, how would we know?

Mr. LAFORNARA. Between 1982 and 1985 we probably would not know. The device was set up to test for insoluble materials, sheens.

Mr. KANJORSKI. You're saying that we all pretty much realize that there is at least 2 more million gallons in there. At the very minimum, we would be talking about a monitoring device ad infinitum out into the future, and anything less than that, we would never know when this material is coming out unless it in some way made itself physically visible to the human senses.

Mr. LAFORNARA. Right.

Mr. KANJORSKI. Which very often does not occur in pollutants.

Mr. LAFORNARA. Correct.

Mr. KANJORSKI. Has EPA gone to the other drainages from the Wyoming Valley from the 300,000 miles of tunnels of mines? There are 48 surface creeks that discharge material from the mines. Have you monitored these and tested them in the same way to find what pollutants are flowing out of them?

Mr. LAFORNARA. That was the responsibility of the State, and they have done that. They have not found similar type materials in those other discharges.

Mr. KANJORSKI. Is it reasonable to say today that there are no physical pollutants flowing south of the Nanticoke Falls in the Susquehanna River as a result of discharge of pollutants from any of the mines in the Wyoming Valley?

Mr. LAFORNARA. I think that is an overly broad statement. There are normal mine discharge materials that you would find in all of those not associated with hazardous wastes.

Mr. KANJORSKI. Are they dangerous to people's health?

Mr. LAFORNARA. In what concentrations? They have been determined to be acceptable up until now.

Mr. KANJORSKI. I have constituents in Danville every day that are drinking this water. They want to know what kind of water they're drinking. Is there any discharge occurring from the seven outfalls or the 48 other surface outfalls that would constitute a water drinking and health hazard to these people?

BEST COPY AVAILABLE

Mr. LAFORNARA. No.

Mr. KANJORSKI. That you can say with certainty?

Mr. LAFORNARA. That I can say based on the analyses shown to me that there is nothing in there that would constitute a health hazard.

Mr. KANJORSKI. Are you making these laboratory tests at the site every day?

Mr. LAFORNARA. The samples are sent to the Department of Environmental Resources Laboratory in Harrisburg.

Mr. KANJORSKI. And they have a turnaround time sufficient to monitor, is that correct?

Mr. LAFORNARA. The turnaround time has been less than 24 hours.

Mr. KANJORSKI. Because of the emergency?

Mr. LAFORNARA. Six of that is taken to drive the sample down.

Mr. KANJORSKI. Mr. Massey, am I to understand that in 1982, after containment, there was some discussion in EPA about reservoiring or containing the material that was coming out and, in fact, treating it or detoxifying it or filtering it? Is that correct?

Mr. MASSEY. Operating in 1979 and 1980 was the Clean Water Act, and the position that we took as a project, removing oil from surface water, was to—and the dilemma that we were in was to possibly look at alternative methods of catching the oil before it got into the tunnel as well as looking at possibly treating. And two studies were performed under 311 activities. One which you had testimony on, the low continuing probability, that was trying to hunt for the mother lode.

The other study that was performed was could we possibly have a treatment system that would capture any pollutants being flotable either in the water column and treat it. And under the authority and responsibility of the Clean Water Act, we could not go on with that process.

But I did have a study and we did prepare information on that treatment.

Mr. FLORIO. Would the gentleman yield?

Mr. KANJORSKI. Yes.

Mr. FLORIO. It is my understanding that the Clean Water Act was not available for that, but the suggestion was that it should be delayed until the Superfund—because by this time Superfund was getting to be implemented—until the Superfund was implemented, and that Superfund money certainly could be made available for that type of a purpose if one wanted to.

Do you know, or, Mr. Hedeman, do you know, if after that initial recommendation was made and it was determined that it could not be a Clean Water Act action, was there ever any evaluation of utilizing Superfund money for the type of suggestions that were made?

Mr. HEDEMAN. I have no knowledge. Let me ask the other gentlemen.

Mr. FLORIO. Mr. Massey, do you know?

Mr. MASSEY. My report was 6 inches thick. It was available to all.

BEST COPY AVAILABLE

Mr. FLORIO. You don't know if anybody ever read it, read it to evaluate whether the available Superfund money should be used for implementing one of those functions?

Mr. HEDEMAN. Let me react on one point. I think one of the problems is just a basic management problem that EPA has had with the Superfund Program. When it was organized in 1980, a decision was made, for reasons that I never have accepted personally, to put the removal department, the removal branch which Mr. Massey heads, in one EPA division and the remedial branch in another one. And I have been successful in putting them together in 8 of the 10 regions in my 4-year tenure, although this is largely a regional administrator call.

For example, both Mr. Massey and Mr. Voltaggio work together now in the same division in region III. I feel that this situation is the very type of thing that I was concerned with in 1981 as a result of this reorganization, and that is that once the left hand does a report, the right hand does not necessarily flow into that information easily.

Mr. FLORIO. Let me throw out another observation. Particularly in the early years of Superfund, but for that separation we would not have had the fine record that we have had in all of the experiences that I am aware of from the removal people. The emergency response people have always been good, have always been very professional, and had they been submerged into the bowels of the program, I am not sure that I would be as confident that they would have been able to perform in the nonpolitical way that they have performed in that period of time.

I appreciate the general observation about the value of submerging two organizations together, but I would point out in that period of time the separateness of those two entities probably worked in the public interest. Hopefully, if you're going to change that, we are not going to have bad experiences by reducing the independence of the emergency response team.

Mr. HEDEMAN. The issue is not their independence. They still have the same amount of independence. In fact, they have more today than they had in 1982. It is the fact that they were in a different bowel of the big body.

Mr. FLORIO. I thank the gentleman for yielding.

Mr. KANJORSKI. Mr. Chairman, I still want to make a report to my constituents, so I would like to address further questions to Mr. Hedeman.

I tried to sense what you were saying in response. You do not consider that storm Gloria was a force majeure? This is not an unreasonable occurrence?

Mr. HEDEMAN. I do consider Gloria to be a force majeure.

Mr. KANJORSKI. In Wyoming Valley, that amount of rain is unusual?

Mr. HEDEMAN. It is billed as the "hurricane of the century." I participated, part of my career in 1972, in the cleanup of Agnes. I have seen what hurricanes are capable of doing in this country, in that area of the country. And I consider the impact particularly where Gloria was to be a force majeure. That is my personal opinion.

BEST COPY AVAILABLE

Mr. KANJORSKI. Your personal opinion is that we have to wait until the next "hurricane of the century" until another outcrop of this material would come out?

Mr. HEDEMAN. I did not say that.

Mr. KANJORSKI. When would we expect something to flow out?

Mr. HEDEMAN. We certainly would hope that now that the site is in the attention that we have, that nothing will ever flow up from this site.

Mr. KANJORSKI. I want to get an idea at this point. Do you really intend to have the complete cleanup, or just a containment cleanup?

Mr. HEDEMAN. I do not know what the remedy is going to be at that site. I have great difficulty personally using the word "cleanup." And I think that is for anything associated with Superfund, I think that is where we tend to wander off into some confusion.

To me, the approach that we are going to take nationally is more to correct the situation than to focus on cleanup. If you talk to the public about the word "cleanup," I think they have in mind a situation in which you would essentially remove all of the waste from the site and put it somewhere else.

Mr. KANJORSKI. Or have a mechanism to collect it and detoxify it.

Mr. HEDEMAN. That is another approach. A third one is containment, which happens to be the preferred approach in the current statute. Fortunately, the bills that are in the Congress and the administration's bill have moved to remove that preference toward containment to essentially mean one of many to consider.

You also see Congress in the reauthorization and the administration proposing, asking that we consider the permanence of the remedy. And I think those are guidances in 1985 we did not have in 1982. So while we can use Butler Tunnel as a case example, some of the constraints we were operating under in 1982 are, I think, all being realized by everyone associated with the reauthorization process. And hopefully, we will not have that recurrence in the new laws.

Mr. KANJORSKI. Is it reasonable to assume that it will not be made in the higher echelons of EPA, the decision to take this off and delist it, but that we will have public hearings and public information to the general public—and perhaps my office—before something like this would occur again in the future?

Mr. HEDEMAN. It is totally reasonable. I would like to offer for the record the current guidance that must be followed by each regional office before any site is nominated for consideration of deletion and once it is nominated, then we go through the rulemaking process as we do to add a site.

Mr. KANJORSKI. Could I ask you for another assurance, if I may, Mr. Hedeman? You said you will have remedial efforts made in 1986 and a feasibility study?

Mr. HEDEMAN. On the assumption that we have some money coming out of Congress.

Mr. KANJORSKI. Can I be reasonably assured that you are not going only to direct your attention to the Butler mine tunnel, but now, as a result of the testimony presented here today, that EPA will take into consideration the 3,000 miles of tunnel and the tens

BEST COPY AVAILABLE

of thousands of bore holes that could legally or illegally have been used for pollutant purposes for deposits, and you will look at the Susquehanna River area as a total picture, environmental picture, and determine in the feasibility study what should be done to recover the pollutants out of the entire chain of caverns as opposed to just the Butler Tunnel?

Mr. HEDEMAN. As we develop the feasibility study, we will factor those concerns into it. I am not in a position today to tell you to what extent that will be done. But that will be developed with community involvement and with the State involvement, and it's still a story to be told. I cannot give you the specific assurance that you want. But it is very clear to all of us that just looking at what is sitting at the mouth of the tunnel waiting to come out, to pardon the pun, is tunnel vision in its foremost, and we have to look at the entire area.

I would relate a remedy, a remedy that we have selected in Florida recently as an example where I think this should go, and that is a number of sites affecting the Biscayne aquifers numbers 5 and 6. Part of it calls on the establishment of a State-local effort to assure that no further waste loads from other sources are infused in the aquifer.

In other words, Superfund cannot do it all. And anyone who thinks so is, as someone said this morning, in "Tinkerbelle land." It has got to be a State and local effort. And I think predominantly a State and local effort because folks like Mr. Massey cannot be at Butler Tunnel and at the same time, for example, spend 3 months of his time trying to put out 7 million tires set on fire, which he was doing last year in the Virginia area, and the other 100 sites. He is spread very thin, and we really have to rely on the State and local effort, not only to help us at the Superfund sites but to make sure that whatever we invest our money in works and stays working.

Mr. KANJORSKI. We can rely, however, and I can report to my constituents, that as a result of the highlighting of this now and this testimony, that your department is saying that this will be placed on the priority list and will remain there and we will have feasibility studies made and there will be public involvement?

Mr. HEDEMAN. You may do that. That is correct.

Mr. KANJORSKI. Thank you.

Thank you, Mr. Chairman.

Mr. FLORIO. Thank you very much.

Let me express my appreciation to all of the witnesses on this panel for their cooperation, and we look forward to continuing in our cooperation with you. Thank you very much.

[Whereupon, at 2:10 p.m., the subcommittee was adjourned.]

BEST COPY AVAILABLE